

# ENTREPRENEURSHIP IN AMERICA: FINAL OSHA LOGGING REGULATIONS

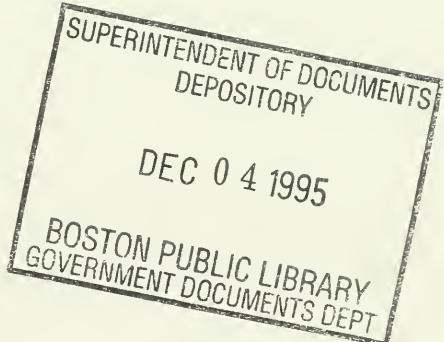
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Entrepreneurship in America: Final...

## FIELD HEARING BEFORE THE COMMITTEE ON SMALL BUSINESS UNITED STATES SENATE ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

MARCH 11, 1995



Printed for the use of the Committee on Small Business

U.S. GOVERNMENT PRINTING OFFICE

93-418 CC

WASHINGTON : 1995

For sale by the U.S. Government Printing Office  
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402  
ISBN 0-16-047736-0



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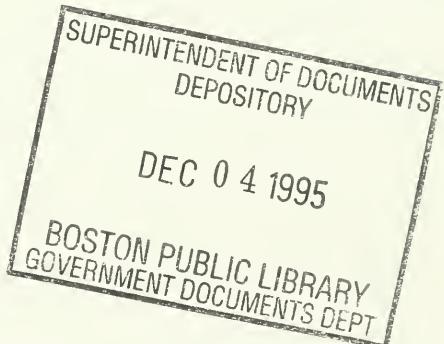
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SATURDAY, MARCH 11, 1995

UNITED STATES SENATE,  
COMMITTEE ON SMALL BUSINESS,  
*Washington, D.C.*

The Committee met, pursuant to notice, at 1 p.m., in the Winchester Room of the Outlaw Inn Convention Center, Kalispell, Montana, Hon. Conrad R. Burns presiding.

Present: Senator Burns.

## OPENING STATEMENT OF THE HONORABLE CONRAD R. BURNS, A UNITED STATES SENATOR FROM MONTANA

Senator BURNS. We are going to call this hearing to order and run right off the bat. I will have a short statement, and I have got a couple of statements to be read into the record from our colleagues.

Let me say up front that this is an official hearing. It will be transcribed and sent back to Washington, D.C., and made part of the record of the Small Business Committee, of which I am a member, and so all testimony that will be taken and given in these hearings and also the written comments will also be made a part of the record and they will also be taken back and be reviewed as we look at rules and regulations and how they affect business and how they affect this country.

I just want to thank all of you for coming today and we hope to just move right along through the people that will be testifying. And then also at the end I will give the opportunity to the crowd to make some comments, so that also will be made a part of the record.

I want to thank Linda Paulson, who has just done a wonderful job in facilitating these hearings. We are holding these meetings all through the West, by the way. It is usually a Senator of the Committee that is holding these hearings in their own State and taking the testimony back to Washington, D.C.

And of course right now we have pending legislation in the Congress that would put a moratorium on rules and regs until we can get a grasp on what is going on. Right now it is just fantastic how fast these rules and regulations are coming out, and we were back here having lunch a while ago and we just ran into some more that even sound even more strange and we will probably hear some today. But we have been having hearings right along.

I also serve on a task force that is looking at rules and regulations along with Senator Hutchison of Texas who all at once for the

first time the Texans of all people are now seeing the effects and the activity all centered around the Endangered Species Act of which they have never had any kind of ways to deal with that. They have never had any situations that dealt with the Endangered Species and now they have because they found some little something up in the hill country out of Austin, Texas, that has now shut the whole central part of Texas down. I thought it was a wonderful thing of course, but I am sure my colleagues from Texas would not agree with that.

But regulations are hurting small business right now. We are hearing more and more people, and I picked up the paper, the Daily Inter Lake, just to give you an idea. Last night I got off the airplane at about midnight, and on the front page is a situation where a guy is remodeling his restaurant and now the County wants to go out and—the menu has to be okayed by the County before he can reopen his restaurant, or things to that effect. I find that unbelievable that that is happening in America.

So the Small Business Committee and Regulatory Task Force of which I am on, we are in the business of monitoring the rules and regulations, going over some and making suggestions on how we may streamline it, on how more people can get involved and also some new formulas in which those rules and regs are formulated. We have to some way or another take a look at bureaucratic red tape. Thus holding these field hearings on oversight is one of the best ways we can address these problems that affect the people in the country and still offer workers a safe work place in which to do business. Excessive Federal regulations tend to kill job growth and the costs of compliance are high and the penalties of non-compliance are at best sometimes unreasonable. In response, Congress is looking at ways to freeze the number of regulations issues, or at least slow them down. I would say ever since I have been in the United States Senate, we have been trying to find some way to carve out more time for these kind of hearings. We do not get the time for oversight and that is where we really do our best work if we have got that time.

The small renewable resource industry is important to our State of Montana and other communities throughout the Pacific Northwest and Alaska. The timber industry provides jobs for our folks and in turn feeds our local economy. In fact, it is the backbone of our economy and I want to see it grow and not get bogged down in red tape and unnecessary regulations.

So everybody wants a safe work place. There is no question about that. But let us find a way that we can get that safe work place in a common sense kind of a way that both the workers and those people who are providing those jobs profit. So I have to wonder about some of the regs and if they actually do more harm than good. Common sense tells us that OSHA cannot possibly protect everyone from everything and so it should start looking at that in that kind of a way, but try to set some kind of an environment in which everybody can look after one another.

We are here to find out if these OSHA logging regulations—the rate right now is a regulatory nightmare. We have had all kinds of mail directed toward that. Workers across the west are being affected by them and they have registered their complaints. I have

heard from folks and my friends in Idaho and Oregon and Washington, California and Alaska. We were in Scottsdale last week, talked with the Independent Timber Industry there, and we heard the same thing there. And those people who are afforded testimony here today, we will also be asking them some questions, some very heavy questions I would hope, on the process, on how these rules and regulations and why they can make them without maybe coming and asking us our idea before they start down that road.

So I welcome the panelists to our hearing today. We want to hear from you, and I am going to sit back and take some notes and I will be asking some questions.

By the way, Hazel Spencer is here. Hazel, where are you? From Senator Baucus's office. Hazel right back there. We are happy to have her here. And if Max has sent a message or something on these hearings, why, we would like to hear from you right now, and I thank you for coming.

Ms. SPENCER. Thank you, Senator Burns. I have a letter to Senator Burns and the people assembled here.

[The letter of Senator Max Baucus follows:]

MAX BAUCUS  
MONTANA

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(202) 224-3685  
MONTANA TOLL FREE NUMBER  
1-800 300-6106

United States Senate

WASHINGTON, DC 20510-2602

March 10, 1995

The Honorable Conrad Burns  
183 Dirksen Senate Office Building  
Washington, DC 20510

Dear Conrad:

I want to thank you for holding this oversight hearing today. This is a welcome opportunity for the staff of the Occupational Safety and Health Administration to hear from the men and women who make their living in Montana's forests.

I also want to thank Keith Olson, the Montana Logging Association and the many loggers who worked with me to get OSHA to pull the most outrageous of these logging rules. Your fast action, calling these regulations to my attention at the meeting last January, allowed me to go straight to Secretary of Labor Bob Reich before the regulations went into effect. And he listened. He stopped the most ridiculous rules before they went into effect. It was an instance in which good old-fashioned Montana common sense won out over the bureaucracy.

Today, I am happy to tell you that we have just gotten some more good news. Secretary Reich has written and asked me to bring together a group of Montana loggers to meet personally with him and take a closer look at these regulations. Sounds like a good idea and something that I plan to take him up on. I think he needs to hear directly from you.

As the folks in this room know, you don't last long in the woods if you don't have a pretty good dose of common sense. Loggers know how best to cut a tree in a particular situation. They wear goggles and a good heavy pair of work boots when called for. And they know how to keep their vehicles in running condition.

OSHA must accept that you as loggers know your own jobs pretty well and understand the risks you take. They simply cannot tell you what to do in every conceivable situation. The bottom line is, OSHA is there to serve you, not to order you around. I hope this informational session drives that point home.

I look forward to working with all of you folks during the next several months to make our case on these logging rules directly to the Secretary of Labor. I think that once he sits down with a few Montanans he will come to see our point of view on these logging rules pretty quickly.

Sincerely,



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Ms. SPENCER. And then I have the letter from Secretary of Labor Reich to Senator Baucus that he referred to in his letter.  
[The letter of Secretary Reich follows:]

SECRETARY OF LABOR  
WASHINGTON

March 10, 1995

The Honorable Max Baucus  
United States Senate  
Washington, D.C. 20510

Dear Senator Baucus:

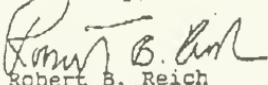
As you know, on February 9, 1995, the Occupational Safety and Health Administration (OSHA), issued final regulations for logging operations. As a result of concerns of the regulated population which you brought to our attention, eleven provisions of the standard were stayed for a period of six months, until August 9, 1995.

I appreciate your active involvement in this rulemaking and respect the degree to which you are fighting for the interests of Montana loggers. Upon further review, I believe the issues that you raised are legitimate and merit closer scrutiny.

That being the case, I would like to enlist your help as the Department of Labor reexamines these rules during the next six months. It would be productive if you could bring together a contingent of Montanans who are directly affected by these regulations for the purpose of reviewing both the regulations that were stayed and the regulations that have already gone forward. I would welcome the opportunity to meet personally with you and this group. This would be a chance to develop a more cooperative working relationship on this and other issues with the men and women of the nation's logging industry.

I have always been a strong advocate of making the Federal government operate to the advantage of workers rather than to their impediment. The implementation of OSHA logging regulations should be no exception. Again, thank you for your guidance on this very important matter. I look forward to working with you and Montanans toward a common sense conclusion.

Sincerely,



Robert B. Reich

Senator BURNS. Thank you, Miss Spencer. We appreciate that very much and we will make those letters a part of the record.

I also have a statement from Senator Dirk Kempthorne of Idaho who serves on the Task Force and also serves on the Small Business Committee.

[The statement from Senator Kempthorne follows:]

STATEMENT OF SENATOR DIRK KEMPTHORNE  
COMMITTEE ON SMALL BUSINESS  
MARCH 11, 1995

Mr. Chairman, as a member of the Senate Small Business Committee, I appreciate the fact that we are holding this field hearing in Kalispell. I think this is indicative of the aggressive agenda set by the Chairman of the Committee, and I'm pleased that agenda includes getting out into the field and examining the issues facing working men and women in rural states like Idaho and Montana.

I'm pleased we have a number of Idahoans participating in this hearing today. Senator Burns was instrumental in making sure that his neighbors from Idaho were included in this hearing. We in Idaho have so much in common with Montanans and Senator Burns and I share similar attitudes about the West and the problems and challenges we face with the abundance of public lands in each of our states.

Specifically, as we focus on OSHA logging regulations in this hearing, I know that those who will testify have important information that they would like to share on how things need to be fixed.

I have real concerns about the balance between compliance and enforcement. We want safe working conditions, but we also want our men and women to be able to work.

The folks on the ground in Idaho have shared their concerns with me and expressed their frustrations with some of these standards that are very difficult to meet even using some of the most advanced technology.

They've expressed their concerns over some of the definitions within the regulations and they've indicated that they may actually create unsafe conditions. The logging industry has been very aggressive in promoting safety and health. And I know they are committed to working with us to find some reasonable solutions without jeopardizing the safety and health of employees.

Again, Mr. Chairman, I thank you for holding this oversight hearing and I look forward to reviewing the testimony and the record from this hearing.

Senator BURNS. And I will make that a part of the record too. He will be holding some future hearings, I think, trying to schedule anyway, in Idaho.

So without further ado I want to hear from the first panel, and the first panel is Greg Baxter, the Deputy Regional Administrator of OSHA from Denver, Colorado, and welcome him; Richard Sauger, who is the Senior Safety Specialist of the Directorate of Safety Standards Program, Occupational Safety and Health Administrator out of Washington, D.C. He was on the same airplane as I was last night. He falls down just like the rest of us do. John Hansen, who is the Field Safety Representative of the Montana Logging Association; George Miller, Safety Director for the Associated Logging Contractors out of Coeur d'Alene.

We welcome the first panel, and Mr. Baxter, we will take your testimony. We are going to try to stick pretty close to the 5-minute rule. We have got three panels today to move it through and I will leave some time for questions. I welcome you today and thank you for coming.

**STATEMENT OF GREG BAXTER, DEPUTY REGIONAL ADMINISTRATOR FOR REGION 8, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DENVER, COLORADO; ACCOMPANIED BY RICHARD SAUGER, SENIOR SAFETY SPECIALIST, DIRECTORATE OF SAFETY STANDARDS PROGRAMS, WASHINGTON, D.C.**

Mr. BAXTER. Senator Conrad Burns, Chairman. Good afternoon, Mr. Chairman. It is a pleasure to be in the Big Sky Country again. I am Greg Baxter, Deputy Regional Administrator for Region 8 of the Occupational Safety and Health Administration. Our office is located in Denver, Colorado. With me today is Mr. Richard Sauger, Senior Safety Specialist in the Directorate of Safety Standards Programs, who was involved in the writing of the final OSHA logging standard. We have come here today prepared to give you and your Committee the background on OSHA's involvement with the logging industry to help better orient everyone about OSHA's standard for this very hazardous industry. We are also here to respond to the questions and concerns that you may have about our activities.

Let us begin by remembering OSHA's central mission: To help protect the safety and health of America's hardworking men and women. Logging has the highest death rate of all occupations, and this has continued for more than a decade. In fact, the loggers' death rate in 1992 was 36 times the average private sector death rate, according to the Bureau of Labor Statistics (BLS). The National Institute for Occupational Safety and Health reports 164 deaths per 100,000 workers for loggers compared with seven per 100,000 workers for all industries during the 1980s.

If we move on to look at the injury experience that does not include fatalities, BLS reports that in 1992 logging workers incurred 14,000 injuries per 100,000 full-time workers compared with 8,000 injuries per 100,000 full-time workers for the average of all the private sector. Workers suffering these injuries ranged from age 16 years old to over 65 years old. In some States the Workers' Compensation rate for logging is more than three times higher than

that of the construction industry, which is often described as one of the highest hazard industries OSHA regulates. In short, logging industry fatalities and injuries impose substantial costs on workers as well as on both small and large logging employers. We must all work together to bring down this costly toll in lives snuffed out, disabling injuries and dollars lost.

In 1971, OSHA adopted, as one of its original startup standards, a pulpwood logging standard from the American National Standards Institute. When this standard was criticized by industry representatives and other parties as being inappropriate for some types of logging that take place in the Northwest and other areas of the United States, OSHA began to gather injury data, State logging requirements and other relevant information to determine how to cover all dangerous activities in the logging industry. We published our proposed rule in May 1988 and began the public comment process. We held public hearings in Washington, D.C., and Portland, Oregon, during July and August 1990 to have a discussion of the important issues of this proposed rule. We received 92 written comments and 23 organizations or individuals spoke at our hearings. All segments of the logging industry were represented during this process.

A number of issues were discussed during this rulemaking. I would like to mention a couple of them to give you some insight into the public comment process. First, the American Pulpwood Association and many others, including professional loggers, advocated that a logger's chain saw must be equipped with a chain brake as a fundamental safety device for each saw. The requirement was nevertheless not supported by all participants in the rulemaking. The Portable Power Equipment Manufacturers Association advocated that OSHA allow the use of any kickback prevention feature, so that bar tip guards and anti-kickback chains would be recognized as equally effective safety devices. Ultimately, after analyzing the record, OSHA agreed with the majority of the logging community who advocated a mandatory chain brake requirement, and mandated that all chain saws covered by this rule be equipped with a serviceable chain brake. This provision has been challenged by one of the very few chain saw manufacturers that does not yet include chain brakes on the majority of its chain saws. OSHA has been gratified by the support it has received from the logging community in their challenge.

Others raised the issue of protective footwear requirements. Before OSHA published its proposal in 1988, some suggested that steel-toe safety footwear was a must. Similarly, when OSHA published the proposal, there were a few commenters who stated that such protective footwear was important. However, a large portion of the industry commenters were emphatic that steel-toe footwear created additional hazards, and that a good quality leather loggers' boot was the preferred foot protection. In the final rule, OSHA adopted a performance-based approach that requires that loggers' boots be sturdy and resistant to chain saw penetration. This standard does not, and I stress does not, require steel-toe footwear. It does require a heavy duty logging boot. These boots are typically made of leather and are sturdy enough to provide loggers with some degree of protection from chain saw penetration. Also, the

final rule did not require employers to provide the footwear. However, any employee-provided footwear must meet the performance criteria of the standard.

After carefully considering all public comments, OSHA issued a final logging standard on October 12, 1994, with an effective date of February 9, 1995. As is often the case with new OSHA standards, many affected employers and manufacturers waited until shortly before the rule's effective date to consider its requirements. As a consequence, some of these affected parties raised a number of concerns about the standard shortly before the effective date.

In response to these concerns, as well as several legal challenges to the standard, OSHA issued a 6-month partial stay of certain provisions of the standard on February 8, 1995. During this period OSHA will develop a technical corrections notice to resolve these issues. The stay affects 12 provisions including face protection, first aid kit approval, machine rollover protective structures and machine braking systems.

Senator BURNS. You might want to just summarize that.

Mr. BAXTER. One thing we do want to mention is that OSHA does have State consultation programs in 50 States and 4 jurisdictions, which are funded by Federal OSHA, providing free services to small- and medium-size employers. We encourage their use, and I would be happy to talk about them if questions arise about them.

But, in conclusion, we do feel that this is an extremely hazardous industry. Our goal in OSHA is simply to protect and help protect the workers in this Nation, and to reduce injury, illness and fatality rates, particularly in this industry. We would like to work together. The forum that you have established here is an excellent forum. We would like to involve ourselves in it sooner than we have done so at this point. We stand ready to work with all parties interested in responsibly reducing the needless toll in the logging industry and thank you for your interest and attention. We stand ready to answer any of your questions.

[The prepared statement and attachments of Mr. Baxter follow:]

United States Senate  
Committee on Small Business  
Field Hearing  
KalisPELL, Montana  
March 11, 1995

**Senator Conrad Burns, Chairman**

Good afternoon, Mr. Chairman. It is a pleasure to be in the Big Sky Country again. I am Greg Baxter, Deputy Regional Administrator for Region 8 of the Occupational Safety and Health Administration. Our office is located in Denver, Colorado. With me today is Mr. Richard Sauger, Senior Safety Specialist in the Directorate of Safety Standards Programs, who was involved in the writing of the final OSHA logging standard. We have come here today prepared to give you and your Committee the background on OSHA's involvement with the logging industry to help better orient everyone about OSHA's standard for this very hazardous industry. We are also here to respond to the questions and concerns that you may have about our activities.

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In 1971, OSHA adopted, as one of its original startup standards, a pulpwood logging standard from the American National Standards Institute, ANSI P1.1-1971. When this standard was criticized by industry representatives and other parties as being inappropriate for some types of logging that take place in the Northwest and other areas of the United States, OSHA began to gather injury data, State logging requirements and other relevant information to determine how to cover all dangerous activities in the logging industry. We published our proposed rule in May 1988 and began the public comment process. We held public hearings in Washington, D.C. and Portland, Oregon, during July and August of 1990 to have a discussion of the important issues of this proposed rule. We received 92 written comments and 23 organizations or individuals spoke at our hearings. All segments of the logging industry were represented during this process.

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In response to these concerns, as well as several legal challenges to the standard, OSHA issued a six-month partial stay of certain provisions of the standard on February 8, 1995. During this period OSHA will develop a technical corrections notice to resolve these issues. The stay affects twelve provisions, including face protection, first aid kit approval, machine rollover

protective structures, and machine braking systems.

OSHA has developed outreach efforts to help employers, loggers and others to better understand their obligations under the logging standard. In addition, OSHA has funded consultation services in each of the fifty states to assist small and medium-size employers in meeting their obligations under the Occupational Safety and Health Act. As a part of the outreach effort we have issued a logging standard field directive (attached to our testimony) that we wish to have placed into the record of this hearing. This document provides further guidance regarding the implementation of the logging standard for the OSHA field staff, employers and employees. It is also available for use by State consultation programs and others.

In conclusion, OSHA believes that the requirements of the final rule address the major causes of logging worker deaths and serious injuries. We believe that these protections will help the logging occupation lose its number one ranking as the most hazardous occupation in the United States. For all of us to be successful in this effort, we need to work together to bring down this very costly toll in lives and dollars. The BLS information, the NIOSH Alert on the logging industry published in December, 1994, and the OSHA field directive for the logging standard are available for use by

all. Additionally, the problem areas that have been identified to OSHA have been clarified in the program directive or will be addressed in our future corrections notice that was mentioned earlier.

Mr. Chairman, we stand ready to work with all parties that are interested in responsibly reducing this needless toll in the logging industry. Thank you for your attention and interest in the OSHA program and we stand ready to answer any of your questions.

U.S. Department of Labor

Assistant Secretary for  
Occupational Safety and Health  
Washington, D.C. 20210OSHA Instruction CPL 2-1.19  
Directorate of Compliance ProgramsSUBJECT: Logging Operations, Inspection Procedures and  
Interpretive Guidance

- A. Purpose. This instruction establishes policies and provides clarification to ensure uniform enforcement of the revised Logging Operations Standard. These policies and procedures will be amended as necessary to clarify enforcement of stayed provisions of the standard.
- B. Scope. This instruction applies OSHA-wide.
- C. References. 29 CFR 1910.95, 29 CFR 1910.133, 29 CFR 1910.147, 29 CFR 1910.266, 29 CFR 1910.269, 29 CFR 1928.21, and STP 2.22A CH-3 (Changes to the State Plan Policies and Procedures Manual, February 27, 1990) and CPL 2.103, Field Inspection Reference Manual (F.I.R.M.), September 26, 1994 are referenced in this instruction.
- D. Action. Regional Administrators and Area Directors shall ensure that the General Inspection Procedures and clarifications in instruction are followed and that compliance officers are familiar with the content of the new standard, and that they are aware of stayed provisions of the standard.
- E. Federal Program Change. This instruction describes a Federal program change which affects State programs. Each Regional Administrator shall:
  - 1. Ensure that this change is forwarded to each State designee, using a format consistent with the Plan Two-way Memorandum in Appendix P, OSHA Instruction STP 2.22A, CH-3.
  - 2. Explain the technical content of the change to the State designee.

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3. Ensure that State designees are asked to acknowledge receipt of the Federal program change in writing, to the Regional Administrator as soon as the State's intention is known, but no later than 70 calendar days after the date of issuance (10 days for mailing and 60 days for response). This acknowledgement should include a description either of the State's plan to implement the change or of the reasons why the change should not apply to that State.
4. Advise the State designees that a plan supplement is not required for implementation of this change. However, if the State's interpretation of its standard is different from OSHA's, the State shall submit a copy of its interpretation to the Regional Administrator.
5. Review policies and guidelines issued by the State to determine if this change has been communicated to State program personnel.

F. Application. The standard applies to all logging operations, where trees are harvested, regardless of the end use of the product. Logging operations include, but are not limited to, the operations of marking, felling, bucking, limbing, debarking, chipping, yarding, loading, unloading, storing, transporting machines and equipment from one site to another, and other operations associated with felling trees and moving logs from the stump to the point of delivery. The standard does not cover the construction or use of cable yarding systems, or the construction of roads or trails to logging sites.

G. Effective Date of Requirements. The effective date for the Logging Operations Standard is February 9, 1995, except for certain provisions listed below, which have been stayed until August 9, 1995.

H. Effective Date of Stayed Provisions. OSHA has set August 9, 1995 as the effective date for the following provisions which have been stayed:

<u>Provision:</u>	<u>General Subject:</u>
(d)(1)(v)	(Foot Protection--but only as it relates to chain-saw resistance of foot protection)
(d)(1)(vii)	(Eye and Face Protection-- but only as it relates to face protection)
(d)(2)(iii)	(Annual Review and Approval of First-Aid Kit Contents)

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- (f) (2) (iv) (Machine Operation on Slopes)
- (f) (2) (xi) (Discharge of Stored Energy from Hydraulic and Pneumatic Storage)
- (f) (3) (ii) (ROPS Criteria)
- (f) (3) (vii) (Lower Portion of Cab Enclosure)
- (f) (3) (viii) (Upper Portion Enclosure with Mesh)
- (f) (7) (ii) (Secondary Braking System--but only as it relates to parking brakes stopping a machine or vehicle in the event the primary service brakes fail)
- (g) (1) (Employee-Owned Vehicle Maintenance--but only as it relates to employee-owned vehicles)
- (g) (2) (Vehicle Inspection--but only as it relates to employee-owned vehicles)
- (h) (2) (vii) (Backcuts--but only as it relates to backcuts in trees being felled by the Humboldt cutting methods)

I. **Background.** The Pulpwood Logging Standard applied only to the harvesting of trees used for pulpwood. This revised standard expands coverage to provide protection for all loggers, regardless of the end use of the forest product that they are harvesting (e.g., saw logs, veneer bolts, pulpwood, and chips).

The revised standard incorporates performance requirements that provide flexibility to employers in developing safety and health programs to suit logging operations in all regions of the country. The standard also requires employers to provide training for each employee who has not been trained previously in these matters, as soon as possible, but not later than the effective date of this section. The standard does not require retraining of current and new employees who received prior training in the elements specified in paragraph (i)(3). The standard requires employers to maintain certification of training records which indicate the date of the training completion or the date on which the employer determined that prior training was adequate.

The revised standard addresses hazards unique to logging operations, in addition to hazards covered by other 29 CFR 1910 General Industry Standards. The revised standard strengthens and further clarifies the previous standard and eliminates unnecessary provisions. Compliance with this revised standard will significantly decrease the number of injuries and fatalities resulting from logging operations.

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J. General Inspection Procedures. [Note: Not all provisions and paragraphs are included in this Directive. Refer to the Standard for further guidance on specific subjects and on additional topics not covered here.] The CSHO shall determine whether the following items are in compliance with the revised standard:

1. Personal Protective Equipment (PPE).

a) Providing PPE. The CSHO shall determine through employer/employee interviews whether, except for foot protection, the employer is providing, at no cost to the employee, personal protective equipment which meets the requirements of this section.

b) Serviceability of PPE. The standard requires that the employer assure that all personal protective equipment, including any personal protective equipment provided by an employee, is maintained in a "serviceable condition" and is inspected before initial use during a workshift. If personal protective equipment is not used during a workshift it does not need to be inspected. The employer may delegate the tasks of maintenance and inspection to the employee who uses the personal protective equipment, but ultimately the employer remains responsible. There are different ways in which employers can fulfill their obligation of assuring that personal protective equipment is maintained and inspected. For example, one method an employer can use is informing employees of the maintenance and inspection procedures during training, reinforcing the requirements during regular safety and health meetings, and conducting spot checks of employees who use personal protective equipment.

The standard does not require a written record of inspections.

c) Face Protection. Requirements for face protection only, such as face shields, have been stayed. Other provisions remain in effect.

d) Foot Protection. Requirements for foot protection against chain-saw penetration have been stayed. Other provisions remain in effect.

•) Leg Protection.

i) The CSHO shall determine whether the employer has provided, at no cost to employees operating chain saws, leg protection specified in (d)(1)(iv).

ii) The CSHO shall determine whether each employee using a chain-saw, not just fellers, is wearing leg protection while operating a chain-saw. This requirement applies to any employee who uses a chain saw, no matter what length of time the employer operates it. For example, a machine operator who, while waiting for a load of logs, bucks or limbs a log with a chain saw must use leg protection.

iii) The CSHO shall ascertain whether employees who are working as climbers are wearing leg protection or whether the employer has demonstrated that a greater hazard is posed by wearing such equipment in the particular situation.

iv) The leg protection requirement does not apply to employees operating a chain saw from a vehicular mounted elevating and rotating work platform.

2. First Aid Kits.

a) The CSHO shall determine whether first-aid kits are at each worksite, at each landing, and on each employee transport vehicle.

i) OSHA intends that the requirement that first-aid kits be at each landing applies to only active landings.

ii) First-aid kits at landings and on vehicles shall suffice for the requirement that first-aid kits be at each worksite, provided that the worksite (including all employees involved with that worksite) is located no more than one-half mile from the first-aid kit at the landing or on the vehicle. (For enforcement purposes, first-aid kits which are within one-half mile of a worksite and all the employees at that worksite will normally be considered to be "reasonably accessible" to an injured employee, especially if audio communication is maintained with the landing.) However, where the worksite or employees engaged in

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logging activities are located farther than one-half mile from the landing or vehicle, sufficient first-aid kits must be taken to that worksite. This is necessary because as worksites and employees are more remote from landings and vehicles it will take more time to get first-aid assistance to an injured employee, especially where the terrain is steep or wet.

b) Requirements for annual review and approval of the contents of first-aid kits by a health care provider have been stayed.

3. Seat Belts. The CSHO shall determine whether each vehicle or machine equipped with Rollover Protective Structure/Falling Object Protective Structure (ROPS/FOPS) or overhead guards, including employee-owned vehicles and machines, has seat belts provided for the operator meeting the requirements of the revised standard.

The employer shall assure that each employee uses the available seat belt while the vehicle or machine is being operated. There are different ways in which an employer can meet this obligation. One method is informing employees of this requirement during training, reinforcing the requirement during regular safety and health meetings, and by conducting spot checks of employees while they are operating vehicles and machines. The CSHO shall determine through employer/employee interviews whether employees are using seat belts whenever they operate a machine or vehicle.

4. Fire Extinguishers. The CSHO shall determine whether the employer provides and maintains portable fire extinguishers on each machine and vehicle involved in logging operations, during both operation and refueling.

5. Work Areas. Through observation and employer/employee interviews, the CSHO shall determine whether adjacent occupied work areas are spaced at least two tree lengths apart and whether the duties of each employee are organized so the actions of one employee will not cause any other employee to be potentially exposed to logging hazards.

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The CSHO shall determine whether a distance of greater than two tree lengths is being maintained between adjacent occupied work areas on slopes.

6. Contact with Logging Workers.

- a) The CSHO shall determine whether each employee involved in logging operations works in a position or location that is within visual or audible contact with another employee. OSHA intends that the contact requirement apply to each employee working at a logging worksite. OSHA does not intend that the contact requirement apply to employees driving vehicles (e.g., log transport trucks) on public roads.
- b) Engine noise, such as from chain saws, is not an acceptable means to "maintain contact".
- c) The CSHO shall determine through employer/ employee interviews whether the employer accounts for each employee at the end of each workshift.

7. Signaling and Signal Equipment.

- a) The CSHO shall determine whether hand signals or audible contacts, such as, but not limited to, whistles, horns, or radios, are utilized whenever noise, distance, or other factors prevent clear understanding of normal voice communications between logging operation employees.
- b) Engine noise, such as from chain saws, is not an acceptable means to "maintain contact" or as a signal.
- c) The CSHO shall determine whether signals are given only by a designated employee, except in an emergency. A "designated person" is defined by this standard as an employee who has the requisite knowledge, training and experience to perform the specified duties.

8. Overhead Electric Lines. The CSHO shall determine whether logging operations near overhead electric lines are in compliance with the requirements of 29 CFR 1910.333(c)(3).

This standard applies during line clearing tree trimming operations, where any of the activities within

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the scope of this standard such as felling etc., are conducted. The Telecommunications Standard at §1910.268 and the Electric Power Generation and Transmission Standard at §1910.269 may apply to logging operations involving tree-trimming, but not the felling of trees.

9. Hand or Portable Powered Tools and Machines. The revised standard requires the employer to assure that each hand and portable powered tool, including each tool provided by an employee, is maintained in serviceable condition and is inspected before initial use during a workshift. If a tool is not used during a workshift it does not need to be inspected. The employer may delegate the tasks of maintenance and inspection to the employee who uses the tools, but ultimately the employer remains responsible. There are different ways in which employers can accomplish their obligation of assuring that tools are maintained and inspected. For example, one method employers can use is informing employees of the maintenance and inspection procedures during training, reinforcing the requirements during regular safety and health meetings, and by conducting spot checks of employees who use tools.

The standard does not require a written record of inspections.

10. Chain Saws.

a.) The CSHO shall determine whether each chain saw placed into initial service after the effective date, including chain saws provided by employees, are equipped with a chain brake and otherwise meet the requirements of the ANSI B175.1-1991 "Safety Requirements for Gasoline Powered Chain Saws." Compliance with the ANSI Standard can be verified by the presence of the manufacturer's label and the UL label on the chain saw.

b.) The CSHO shall determine whether chain saws placed into service before the effective date are equipped with a kickback device, such as a chain brake, bar tip guard, reduced-kickback guide bar, or reduced-kickback saw chain. The CSHO shall determine whether the kickback device is in serviceable condition and has not been removed or disabled.

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Note: When chain saw sound levels specified in 1910.95 exceed the requirements of section 1910.95, the employer shall provide and the employee shall wear ear protection in accordance with the requirements of Section 1910.95. The OSHA standard 1910.95 governs for chain saw sound levels, not ANSI B175.1-1991 which provides for higher noise level).

11. Machine Operation.

a.) The employer shall assure that each machine, including each machine provided by an employee, is maintained in a serviceable condition and is inspected before initial use during a workshift. If a machine is not used during a workshift it does not need to be inspected. The employer may delegate the tasks of maintenance and inspection to the employee who uses the machine, but ultimately the employer remains responsible. There are different ways in which employers can accomplish their obligation of assuring that machines are maintained and inspected. For example, one method employers can use is informing employees of the maintenance and inspection procedures during training, by reinforcing the requirements during regular safety and health meetings, and conducting spot checks of employees who use machines.

b.) The standard does not require a written record of inspections.

c.) The CSHO shall determine whether a machine operator manual or set of instructions is maintained within the area where the machine is being operated, and whether each operator and maintenance person is following the manual or instructions. Failure to follow instructions may indicate lack of training or lack of supervision.

d.) The requirement that machines shall not be operated on any slope greater than the maximum slope recommended by the manufacturer has been stayed (Paragraph (f)(2)(iv)).

e.) The requirement that after machine engines are shut down that pressure or stored energy from hydraulic and pneumatic storage devices shall be discharged has been stayed (Paragraph (f)(2)(xi)).

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12. Protective Structures.

- a) (See Standard for listing of machines covered by this provision.) The revised standard requires that each machine placed into initial service after the effective date be equipped with a falling object protective structure (FOPS) and rollover protective structure (ROPS).
- b) The requirement that ROPS meet the requirements of the Society of Automotive Engineers SAE J1040, April 1988, "Performance Criteria for Rollover Protective Structures (ROPS) for Construction, Earthmoving, Forestry, and Mining Machines" has been stayed (Paragraph (f)(3)(ii)). During the stay ROPS may meet other criteria, such as the SAE J1040c 1979 standard or ROPS.
- c) The requirements for enclosure of the upper and lower portion of the operator cab have been stayed (Paragraphs (f)(3)(vii) and (viii))
- d) The CSHO shall determine whether machines operated near cable yarding operations are equipped with roofs or sheds that provide sufficient protection from breaking cable lines.

- 13. Overhead Guards. The revised standard requires that each forklift be equipped with an overhead guard which meets the requirements of the American Society of Mechanical Engineers, ASME B56.6-1992 (with addenda), "Safety Standard for Rough Terrain Forklift Trucks." (The preamble of the revised standard mistakenly references the 1987 ASME standard. This reference should be disregarded.) This section does not provide an exception for forklifts placed into service before the effective date of the Standard.

- 14. Machine Safety Features. The CSHO shall determine whether the following requirements are met:

- a) Each machine cab has a second means of egress.
- b) Walking and working surfaces of each machine and machine work station have a slip resistant surface to assure safe footing.

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c) The walking and working surface of each machine are kept free of waste, debris and any other material that could cause fire, slipping, or falling.

d) The exhaust pipes of machines are equipped with spark arresters. Engines equipped with turbochargers are not required to have spark arresters.

15. Brakes.

a) The revised standard requires that the primary service brakes be sufficient to stop and hold the machine or vehicle and its rated load on the slope on which it is being operated.

b) The requirement that parking brakes be able to stop a machine or vehicle should the primary service brakes fail has been stayed.

c) During the stay, employers must still assure that each machine has a service brake system and a secondary breaking system that is capable of stopping the machine, and a parking brake system that can hold the machine and its maximum load on any slope that the machine is operated.

16. Guarding. The CSHO shall determine whether effective guarding meeting the requirements of subpart O of Part 1910 is installed on each machine and is in place while the machine is in operation in order to protect employees from moving parts.

17. Vehicles.

a) The employer shall ensure that each vehicle is maintained in a serviceable condition and is inspected before initial use during a workshift. If a vehicle is not used during a workshift it does not need to be inspected. The employer may delegate the tasks of maintenance and inspection to the employee who uses the vehicle, but ultimately the employer remains responsible. There are different ways in which employers can accomplish their obligation of assuring that vehicles are maintained and inspected. For example, one method employers can use is informing employees of the maintenance and inspection procedures during training, reinforcing the requirements during

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regular safety and health meetings, and conducting ~~sp~~ checks of employees who use vehicles.

b) The requirement that employers assure that employee-owned vehicles are maintained in a serviceable condition and inspected before initial use during a workshift has been stayed.

c) The standard does not require a written record of inspections.

d) The CSHO shall determine whether operating and maintenance instructions are available in each vehicle and whether each vehicle operator and maintenance employee is complying with the instructions.

18. Tree harvesting. The CSHO shall determine whether the following requirements are met:

a) No yarding machine is operated within two tree lengths of any tree which is in the process of being manually felled.

b) No employee approaches manual or mechanical felling operations closer than two tree lengths until the feller or operator, respectively, acknowledges it is safe to do so.

c) Undercuts are made in each tree being felled unless the employer demonstrates that felling the particular tree without an undercut will not create a hazard for an employee.

d) Backcuts are made in each tree being felled.

e) Backcuts are made above the horizontal cut of the undercut when the "conventional" cutting method is used. This requirement does not apply in tree pulling operations. This requirement also does not apply to "open face felling" since there is no horizontal undercut in that cutting method. The requirement that backcuts be above the horizontal cut of the undercut when the "Humboldt" cutting method is being used has been stayed.

f) Bucking and limbing are done from the uphill side unless the employer demonstrates that it is not feasible. When bucking or limbing is done from the

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downhill side, the tree must be secured with chocks to prevent it from moving.

19. Removal of Danger Trees.

- a) The CSHO shall determine whether employees are following safe practices in the removal of danger trees. Safe practices include checking for signs of loose bark, broken branches or limbs, and checking for damage before the danger trees are felled or removed.
- b) The revised standard requires that danger trees, including lodged trees, must be felled or removed before other work is commenced in the area of the danger tree. Danger trees may be marked and avoided instead of being felled or removed, provided that no other work is commenced in the area of the danger tree.
- c) The standard recommends mechanical felling of danger trees. When other means are used, they must minimize employee exposure. We understand this to mean that felling can be done by such means as having a single, designated, properly trained employee fell the tree.
- d) OSHA is not prohibiting removal of a danger tree by felling another one into it.

20. Domino Felling of Trees. The CSHO shall determine whether any employee is practicing the unsafe and prohibited act of harvesting trees by means of domino felling. Domino felling does not include the process of removing a danger tree by felling another one into it.

("Domino felling" is the partial cutting of multiple trees which are left standing and then pushed over with a pusher tree.)

21. Chipping. The CSHO shall determine whether the following requirements are met:

- a. Chipper access covers or doors are not to be opened until the drum or disc is at a complete stop.

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- b. The chipper is shut down and locked out in accordance with the requirements of 29 CFR 1910.147 when an employee performs servicing or maintenance. 1910.147(c)(4)(i) requires the use of a documented lockout procedure and 1910.147(c)(7)(i) requires the training of employees. Unlike §1910.147, however, this standard does not allow the use of tags.
- c. Detached trailer chippers are chocked during usage on any slope where rolling and sliding of the chipper is reasonably foreseeable.

22. Training.

- a) The CSHO shall determine whether each logging employee is adequately trained, using the following guidelines:
- b) All training must be conducted by a "designated person" (refer to the standard for definition).
- c) The employer must certify the training of employees involved in logging operations.
- d) The training being provided to employees must meet the requirements specified in paragraph (1)(3).
- e) Safety and health meetings must be held at least each month. The revised standard allows the safety and health meetings to be conducted individually, in crew meetings, in larger groups, or as part of other staff meetings.
- f) Each employee must have received training in first aid within the last three years and in CPR within the last twelve months. The employer is not required to provide the training but rather to ensure that the employee's first-aid and CPR training and/or certificate of training remain current.
- g) Training materials used must be appropriate in content and vocabulary to the educational level, literacy, and language skills of the employees being trained. For example, that could include the availability of training material and instructions in the native language of the non-English speaking employee.

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h) The revised standard provides exceptions from the training requirements for current and new employees who have previously received training meeting the requirements of this standard. Where the employer elects to rely on the previous training rather than retraining an employee, the employer must certify the date on which the employer determined that the previous training was adequate. Where the employer relies on training provided prior to hiring or prior to the effective date, the employer must certify the date on which the employer determined that the prior training was adequate. New employees must work under the close supervision of a designated person until the employee demonstrates the ability to safely perform their duties independently. The date of the demonstration will suffice for the date on which the employer determined prior training was adequate.

i) The CSHO shall determine through employer/employee interviews whether new employees and newly-trained employees work under the close supervision of a "designated person" (see paragraph (J)(8) of this directive for definition) until the employee has demonstrated that ability to safely perform the job independently.

K. Stayed Provisions. Review Appendix A (OSHA Notice: Final Rule, partial stay in enforcement) for further clarification on stayed provisions and effective dates discussed herein.

Joseph A. Dear  
Assistant Secretary

DISTRIBUTION: National, Regional, and Area Offices  
All Compliance Officers  
State Designees  
NIOSH Regional Program Directors  
7 (c) (1) Consultation Project Managers  
OSHA Training Institute

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Directorate of Compliance Programs

**APPENDIX A**

OSHA Notice: Final Rule (§1910.266), Partial Stay of Enforcement

Highway Administration, the Federal Railroad Administration, the Research and Special Programs Administration, and the Saint Lawrence Seaway Development Corporation of the U.S. Department of Transportation who are assigned to perform or assist in performing investigative, inspection or law enforcement functions; and (5) U.S. Trustees and Assistant U.S. Trustees, and bankruptcy analysts and other officers and employees of the U.S. Trustee System who have contact with creditors and debtors, perform audit functions, or perform other investigative or enforcement functions in administering the bankruptcy laws. No public comments were received.

Administrative law judges (ALJs) perform law enforcement functions under various federal laws. In recent years ALJs have been recipients of an increasing number of threats, often by litigants in proceedings before ALJs who have considerable property interests at stake. Presently, there are over 1000 ALJs in nearly 30 federal agencies. Some of the ALJs is the Social Security Administration and the Securities and Exchange Commission are currently covered by § 64.2 (x) and (w), respectively. While these ALJs comprise nearly 70% of all federal ALJs, there is no valid reason for not covering the others who experience similar risks. Accordingly, all administrative law judges have been added by paragraph (a) of § 64.2.

The Office of Workers' Compensation Programs (OWCP) of the Department of Labor administers three workers' compensation laws: the Federal Employees' Compensation Act (FECA); the Longshore and Harbor Workers' Compensation Act (LHWCA) and its extension; and the Black Lung Benefits Act (BLBA). OWCP employees adjudicate and administer claims which result in the payment (or denial) of benefits under these respective laws. As part of this process, the employees conduct informal conferences and (under FECA) face-to-face hearings. The individual claims examiner's identity is well known to claimants, as are the supervisors and managers involved at all levels of the program. These employees' jobs involve a substantial risk of physical danger from some claimants and other members of the public who seek to influence the outcome of the claim or who are dissatisfied with the decisions rendered. In recent years, an increased number of threats and acts of violence have been directed against OWCP employees. There have been instances in which individuals have appeared in OWCP offices with vicious dogs, with

purported explosives strapped to them, and with firearms and other dangerous weapons. Accordingly, those OWCP employees have been added by paragraph (b) of § 64.2.

Because of new paragraph (aa), reference to "administrative judges" in paragraph (w) has been deleted. Also, because section 6 of Pub. L. 102-365, 106 Stat. 975, September 3, 1992, added to section 1114 of title 18, U.S.C., "any officer or employee of the Federal Railroad Administration assigned to perform investigative inspection or law enforcement functions," reference to the Federal Railroad Administration has been deleted from paragraph (z).

On May 18, 1994, an interim rule with request for comments was published in the *Federal Register* amending part 64 of title 28, Code of Federal Regulations. Attorney General Order No. 1874-94, 59 FR 25815. One favorable comment was received. The Department has determined to issue the rule in final form without revision to the interim rule.

The Department of Justice has determined that this is not a "significant regulatory action" within the meaning of Executive Order 12866 and, accordingly, this rule has not been reviewed by the Office of Management and Budget. This order will not have a substantial impact on a significant number of small entities, thus a regulatory flexibility analysis has not been prepared pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. Finally, this order does not have Federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12512.

Accordingly, the interim rule amending 28 CFR part 64 which was published at 59 FR 25815 on May 18, 1994, is adopted as a final rule without change.

Dated: January 31, 1995.  
 Janet Reno,  
 Attorney General  
 [FR Doc. 95-3058 Filed 2-7-95; 8:45 am]  
 BILLING CODE 4410-01-M

#### DEPARTMENT OF LABOR

Occupational Safety and Health Administration

#### 29 CFR Part 1910

[Docket No. S-048]

#### Logging Operations

AGENCY: Occupational Safety and Health Administration (OSHA).

**ACTION:** Final rule; partial stay of enforcement.

**SUMMARY:** On October 12, 1994, the Occupational Safety and Health Administration (OSHA) issued a new standard for logging operations (59 FR 51672). This notice stays enforcement of the following paragraphs of § 1910.266 until August 9, 1995: (d)(1)(v) insofar as it requires foot protection to be chainsaw resistant; (d)(1)(vi) insofar as it requires face protection; (d)(2)(iii) for first-aid kits that contain all the items listed in Appendix A; (f)(2)(iv); (f)(2)(xi); (f)(3)(ii); (f)(3)(vii); (f)(3)(viii); (f)(7)(ii) insofar as it requires that parking brakes be able to stop the machine; (g)(1) and (g)(2) insofar as they require inspection and maintenance of employee-owned vehicles; and (h)(2)(vii) insofar as it precludes backcuts at the level of the horizontal cut of the undercut when the Humboldt cutting method is used.

**DATES:** Effective on February 9, 1995. The partial stay will expire on August 9, 1995. The remaining requirements of § 1910.266 are unaffected by this document and will go into effect as scheduled on February 9, 1995, or as otherwise provided in the Final Rule.

**FOR FURTHER INFORMATION CONTACT:** Ms. Anne Cyr, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N-3637, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, (202) 219-8148.

**SUPPLEMENTARY INFORMATION:** On October 12, 1994, OSHA issued a final rule governing worker safety in logging operations. Among other things, this rule included requirements for: personal protective equipment; first aid kits at logging work sites; machine stability and slope limitations; discharge of hydraulic and pneumatic storage devices on forestry machines; protective structures on machines; machine braking systems; vehicle inspection and maintenance; and tree harvesting. Several parties have raised questions about certain aspects of these requirements. After considering their questions, the Agency has determined that a six-month delay in the effective date of some of the provisions is appropriate in order to allow time for it to clarify language in the regulatory text so that it most adequately expresses its intent with respect to some of these provisions, and to provide additional information on other provisions.

**Stay of Enforcement of Certain Provisions of § 1910.266**

*Paragraph (d)(1)(v)—Foot protection.* The final logging standard requires

employees to wear foot protection, such as heavy-duty logging boots, that among other things, protect against "penetration by chain saws." Some interested persons have misinterpreted this provision to require steel-toed boots, although the preamble to the final rule explained that the rule does not require steel-toed boots.

OSHA has decided to grant a six-month delay in the effective date of the portion of this provision that requires that foot protection be chain-saw resistant. (The remaining requirements of the foot protection provision will go into effect as scheduled on February 9.) This delay will enable OSHA to review the logging community requirements on available foot protection, including many types of heavy-duty leather logging boots currently used, kevlar boots, and foot coverings that provide adequate chain saw resistance. Finally, this delay will allow greater availability of new products that manufacturers are developing in response to the standard.

*Paragraph (d)(1)(vii)—Eye and face protection.* The logging standard requires loggers to wear eye and face protection meeting the requirements of OSHA's general personal protection equipment (PPE) standards when there is a potential for injury due to falling or flying objects. Some interested persons have interpreted this provision to require both eye and face protection in all cases.

OSHA has decided to grant a six-month delay in the effective date of this provision to the extent that it requires face protection. (The current effective date of February 9 will continue to apply to the eye protection requirement.) The delay will allow OSHA to clarify what the standard requires, and to better inform employers about available face protection that does not limit worker vision.

*Paragraph (d)(2)(iii)—Annual approval of first-aid kits by a health care provider.* Paragraph (d)(2) states that employers must provide and maintain adequate first-aid kits at each worksite, and that the number and contents of the kits must be reviewed annually by a health care provider. Some interested persons have interpreted the standard to require that a doctor inspect each kit annually.

OSHA has decided to grant a six-month delay in the effective date of the provision requiring annual health care provider review. The requirement that first-aid kits contain at least the items listed in Appendix A (paragraph (d)(2)(iii)) will go into effect as scheduled on February 9, 1995. During this period, OSHA will revise the

statutory language to clarify its original intent.

*Paragraph (f)(2)(iv)—Slope limitations on machine operation.* This rule states that logging machines shall not be operated on any slope greater than the maximum slope recommended by the manufacturer. Some parties have interpreted this provision to require manufacturers to specify maximum slopes that would be applicable in all field situations. OSHA is granting a six-month stay of this provision to clarify this point.

*Paragraph (f)(2)(xi)—Discharge of stored energy from machine hydraulic and pneumatic storage devices.* This provision requires that pressure or stored energy from hydraulic and pneumatic storage devices be discharged after the machine engine is shut down. Some parties have interpreted this provision to require discharge of air and water from all machine components, even when the presence of air or water pressure will not create a hazard for any employee. OSHA is granting a six-month delay in order to clarify this point.

*Paragraph (f)(3)(ii)—Machine rollover protective structures.* The final rule requires that all rollover protective structures (ROPS) be installed, tested and maintained in accordance with the Society of Automotive Engineers (SAE) J1040, April 1988, performance criteria for rollover protective structures (ROPS). OSHA has learned that some logging equipment currently in production has not yet been designed to meet the 1988 SAE criteria document. OSHA has decided to delay the effective date of this requirement for six-months in order to determine whether any appropriate extension may be appropriate.

*Paragraph (f)(3)(vii) and (viii)—Machine operator cab protective structures.* These provisions require that the lower portion of the operator's cab be enclosed with "solid" material that will prevent objects from entering the cab. Some parties have interpreted this provision to encourage the use of materials like steel plating that may restrict the operator's field of vision. OSHA is granting a six-month delay in the effective date of this provision in order to clarify this requirement.

*Paragraph (f)(7)(ii)—Machine braking systems.* This provision requires that each machine be equipped with "a secondary braking system, such as an emergency brake or a parking brake, which shall be effective in stopping the machine and maintaining parking performance." OSHA has since learned that the terminology used in this provision is inconsistent with that used

by some manufacturers. These manufacturers consider a secondary braking system to be a subsystem of the service brake system and that each subsystem should be capable of stopping the machine even though the other subsystem fails. The parking brake system is not designed to stop the vehicle in motion but rather to restrain it once movement has stopped; thus it is not considered a secondary system.

OSHA is granting a six-month delay in this provision only to the extent that it requires that parking brakes be able to stop the machine. During this period, employers must still assure that each machine has a service brake system and a parking brake system that can hold the machine and its maximum load on any slope that the machine is operated. OSHA will revise the terminology in this provision to clarify its intent.

*Paragraph (g) (1) and (2)—Inspection and maintenance of employee-owned vehicles.* These provisions require that any vehicle used off public roads at logging work sites or to perform any logging operation, including employee-owned vehicles, be maintained in a serviceable condition. Some parties have interpreted this provision to require logging employers to inspect and maintain all vehicles, including those employee-owned vehicles that they allow on their logging sites.

OSHA is granting a six-month delay in the effective date of these provisions insofar as they apply to employee-owned vehicles. The additional time will enable OSHA to reexamine the record on this issue and clarify its intent of the standard.

*Paragraph (h)(2)(vii)—Backcuts.* This rule requires that backcuts be above the horizontal line of the undercut. OSHA is aware that when loggers use the Humboldt cutting method, in which the diagonal cut is below the horizontal cut of the undercut, the backcut is at the level of the horizontal cut. The Agency is granting a six-month delay in the effective date of this provision only to the extent that the rule does not permit loggers using the Humboldt method to place the backcut at the level of the horizontal cut. (OSHA emphasizes that backcuts may never be made below the horizontal cut.) OSHA will reexamine the record on this issue.

### III. Authority

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210

The actions in this document are taken pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 1-90 (55 FR 9033), and 29 CFR part 1911.

Signed at Washington, DC, this 2nd day of February, 1995.

Joseph A. Dear,

Assistant Secretary of Labor.

For the reasons set forth above, 29 CFR part 1910 is hereby amended as follows:

**PART 1910—[AMENDED]**

1. The Authority citation for subpart R of 29 CFR part 1910 continues to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (46 FR 35736), or 1-90 (55 FR 9033), as applicable.

Sections 1910.261, 1910.262, 1910.265, 1910.266, 1910.267, 1910.268, 1910.272, 1910.274, and 1910.275 also issued under 29 CFR part 1911.

Section 1910.272 also issued under 5 U.S.C. 553.

2. A note is added at the end of § 1910.266, to read as follows:

**§ 1910.266 Logging operations.**

Note: In the Federal Register of February 8, 1995, OSHA stayed the following paragraphs of § 1910.266 from February 9, 1995 until August 9, 1995:

1. (d)(1)(v) insofar as it requires foot protection to be chain-saw resistant.

2. (d)(1)(viii) insofar as it requires face protection.

3. (d)(2)(iii).

4. (f)(2)(iv).

5. (f)(2)(xi).

6. (f)(3)(ii).

7. (f)(3)(vii).

8. (f)(3)(viii).

9. (f)(7)(ii) insofar as it requires that parking brakes be able to stop the machine.

10. (g)(1) and (g)(2) insofar as they require inspection and maintenance of employee-owned vehicles.

11. (h)(2)(vii) insofar as it precludes backcuts at the level of the horizontal cut of the undercut when the Humboldt cutting method is used.

[FR Doc. 95-3041 Filed 2-7-95, 8:45 am]

BILLING CODE 4510-26-44

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 51 and 93**

[FRL-5149-8]

**Transportation Conformity Rule**

**Amendments: Transition to the Control Strategy Period**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Interim final rule.

**SUMMARY:** This action aligns the timing of certain transportation conformity consequences with the imposition of Clean Air Act highway sanctions for a six-month period. For ozone nonattainment areas with an incomplete 15% emissions-reduction state implementation plan with a protective finding; incomplete ozone attainment/3% rate-of-progress plan; or finding of failure to submit an ozone attainment/3% rate-of-progress plan, and areas whose control strategy implementation plan for ozone, carbon monoxide, particulate matter, or nitrogen dioxide is disapproved with a protective finding, the conformity status of the transportation plan and program will not lapse as a result of such failure until highway sanctions for such failure are effective under other Clean Air Act sections.

This action delays the lapse in conformity status, which would otherwise prevent approval of new highway and transit projects, and allows States more time to prevent the lapse by submitting complete control strategy implementation plans. EPA is issuing this interim final rule, effective for a six-month period, without prior proposal in order to prevent previously unforeseeable delays in State ozone implementation plan development from causing widespread conformity lapsing. In a parallel action in this Federal Register, EPA is requesting comment on this interim final rule and on similar but permanent rule changes.

**EFFECTIVE DATE:** This interim final rule is effective on February 8, 1995 until August 8, 1995.

**ADDRESSES:** Materials relevant to this rulemaking are contained in Docket No. A-95-02. The docket is located in room M-1500 Waterside Mall (ground floor) at the Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket may be inspected from 8 a.m. to 4 p.m., Monday through Friday, including all non-government holidays.

**FOR FURTHER INFORMATION CONTACT:** Kathryn Sargeant, Emission Control

Strategies Branch, Emission Planning and Strategies Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105 (313) 668-4441.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

**A. Transportation Conformity Rule**

The final transportation conformity rule, "Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act," was published November 24, 1993 (58 FR 62188) and amended 40 CFR parts 51 and 93. The Notice of Proposed Rulemaking was published on January 11, 1993 (58 FR 3768).

Required under section 176(c) of the Clean Air Act, as amended in 1990, the transportation conformity rule established the criteria and procedures by which the Federal Highway Administration, the Federal Transit Administration, and metropolitan planning organizations determine the conformity of federally funded or approved highway and transit plans, programs, and projects to state implementation plans (SIPs). According to the Clean Air Act, federally supported activities must conform to the implementation plan's purpose of attaining and maintaining the national ambient air quality standards.

The final transportation conformity rule requires that conformity determinations use the motor vehicle emissions budget(s) in a submitted "control strategy" SIP (defined below), and the rule includes special provisions to address failures in control strategy SIP development. These failures include failure to submit a control strategy SIP, submission of an incomplete control strategy SIP, or disapproval of a control strategy SIP. Specifically, according to 40 CFR 51.448 (and 40 CFR 93.128), following these SIP development failures, no new or amended transportation plans or transportation improvement programs (TIPs) may be found to conform to the SIP after a certain grace period (i.e., the existing transportation plan and TIP are "frozen"), and eventually, the conformity status of the existing transportation plan and TIP lapses.

When the conformity status of the transportation plan and TIP lapses, no new project-level conformity determinations may be made, and the only federal highway and transit projects which may proceed are exempt or grandfathered projects. Non-federal

Senator BURNS. Thank you, Mr. Baxter.

Mr. Sauger, do you have a statement that you want to put in the record?

Mr. SAUGER. No.

Senator BURNS. Mr. Hansen, Field Safety Representative, Montana Logging Association right here in Kalispell, and I will thank you for coming, John. We appreciate that.

**STATEMENT OF JOHN HANSEN, FIELD SAFETY REPRESENTATIVE, MONTANA LOGGING ASSOCIATION, KALISPELL, MONTANA**

Mr. HANSEN. Senator Burns, members of the Committee. My name is John Hansen. I am one of two full-time field safety representatives employed by the Montana Logging Association.

The MLA represents over 600 independent logging contractors from throughout the State of Montana, all of which operate small, family-owned businesses. As such, we appreciate this opportunity to appear before this small business subcommittee of the United States Senate to discuss the impact of regulatory mandates imposed on loggers by the Occupational Safety and Health Administration.

Quite frankly, Senator, we must respectfully suggest that OSHA's newest rules do little to improve on-the-ground safety for loggers in Montana. The majority of what they propose, we are already advocating. The rest of what they propose range from the silly, doctor approved first aid kits; to the imaginative, chain saw resistant logging boots; to the debatable, rules which limit a logger's option to determine the safest approach to hazard reduction; to the virtually impossible, removing all danger trees, including lodged trees, by mechanical means. Senator Burns, OSHA simply must rewrite the rule relative to danger trees.

We readily admit that logging is inherently dangerous. The woods are fraught with natural hazards, but these hazards simply are not categorical. They differ by forest type. They differ by tree species. They differ by terrain. They change from logging operation to logging operation and they change from season to season. If we, as loggers, could standardize logging hazards, we would. We can't, and efforts to standardize them will frustrate the best-intentioned rule writers.

As an association, we continue to expand upon an aggressive commitment to safety that began in 1982. I personally conduct some 400 job visitations each year. I can attest to the strong commitment that most loggers in Montana have made to safety. I can also attest to the frustration of these loggers as they are subjected to rules that question their professionalism, increase their regulatory burden and erode hazard reduction options.

As a safety man whose job it is to advocate safety in the woods, I want to focus on the fact that too many of OSHA's rules limit the safety-related options of professional woodworkers. OSHA simply has to respect the fact that a rule which addresses one hazard often creates another hazard. In such a case, the safest option is best left to experience rather than to a by-the-book rule.

By-the-book interpretations are also vague. Since OSHA's new rules were released, we have witnessed inconsistent interpretations

at the national and district level. And we have witnessed inconsistent interpretations between adjoining States like Montana and Idaho where our common border is a forest in which loggers frequently work both sides of the State line.

Conflicts also exist between Federal agencies. OSHA rules regarding "danger trees" clash with Forest Service rules regarding "wildlife trees." Strict enforcement of OSHA's "danger tree" rule would virtually stop salvage logging in the Intermountain Region. Even loggers, Senator, cannot please two masters. OSHA or the Endangered Species Act, and preferably both, are going to have to give.

Perhaps my greatest frustration in this evolving process, however, has been OSHA's categorical dismissal of the constructive suggestions offered by logging and safety professionals. These professionals merely recommended alternative safety measures that met the scope and intent of the rule. I want to reemphasize that all of these recommendations were dismissed.

I personally believe it was this mindset that caused a group of loggers in the Swan, most of whom were employees, to stand up and say, "We're not going to take it any more." And because aides to Montana's congressional delegation were present, a partial stay of objectionable rules, and this public hearing, have come to pass.

In conclusion, I would say that the MLA had the opportunity to comment on OSHA's proposed rules during the previous administration. Had we had a similar opportunity with this administration, perhaps many of our concerns and frustrations could have been avoided. I would like to thank you, Senator Burns, and the Committee for the opportunity to voice our concerns.

Senator BURNS. Thank you, John.

And now George Miller, who is Safety Director, Associated Logging Contractors from Coeur d'Alene. Welcome to Montana.

#### **STATEMENT OF GEORGE MILLER, SAFETY DIRECTOR, ASSOCIATED LOGGING CONTRACTORS, COEUR D'ALENE, IDAHO**

Mr. MILLER. Thank you, Senator.

Senator Burns, Committee members. Good afternoon. I am George Miller, Safety Director for the Associated Logging Contractors, Coeur d'Alene, Idaho. I want to thank the Committee for the opportunity to discuss the final OSHA logging regulations impact on small business. Associated Logging Contractors is a 28-year-old association of over 650 logging companies from the States of Idaho, Montana, Oregon and Washington. We are an association which is principally composed of employers with less than 20 employees. They harvest logs from the many national forests in our area as well as private and State-owned land. These loggers are professionals in their trade. They have learned their craft from their fathers, and they learned from their fathers before them. These professionals and small business owners feel that the final OSHA logging regulations are a burden, overbroad and in many cases vague. It appears that the standards were not written with small business in mind.

When the standard was initially proposed in 1989 the association and its members became involved and attended hearings and gave input to OSHA in an effort to improve the proposed rules in which

they would have to work under. The final submission, however, appears to be written with major changes and with very little knowledge of the profession. Many parts of the final rule were not in the initial proposal from which comments were received by OSHA as well as many parts of the final rule were not even in the old pulp-wood standard which has been replaced by this new rule.

We do applaud the intent of the new standard, however, its requirements and impositions are a major burden and hardship on these small business professionals as well as their employees.

This new rule is a fine example of government interference without government accountability for its actions to the working people of our industry. This regulation is a fine example of how the Government has assumed that loggers and small business owners are incompetent and cannot be trusted to safely perform their jobs.

This regulation is vague and ambiguous. I have had the opportunity to sponsor many industry meetings with OSHA officials from local offices to review the standard. What is disturbing is: How is a small independent business owner going to handle the additional burden of the compliance when OSHA itself cannot interpret the standards in a uniform and consistent manner? After these meetings I have had industry members approach OSHA with various circumstances and have heard different answers on how the standard would be applied.

We represent small businesses that do not have the luxury of large profit margins. Many go from check to check. How are they going to continue in their trade and profession with the additional burden? Here are some examples of how OSHA has interpreted the rule.

No. 1, what may in an office in Washington, D.C., seem to be a prudent piece of personal protective equipment out in the woods is a greater hazard and burden to the logger. For example, face protection. Have the authors felled a tree and have the authors walked in the woods and worked in the woods to determine appropriate footwear?

No. 2, safety is of utmost importance, however, falling a tree is an art. To limit and restrict falling techniques to words which are not adaptable to the situation in the woods is too restrictive.

No. 3, the imposition of the logging owner into assurances of his employees personally-owned equipment such as his pickup is undue reaching into the employer/employee relationship. Does the OSHA compliance officer have his personal vehicle inspected and approved by his superior?

No. 4, many common sense safety approaches are already adopted by the industry. We do not want injuries or deaths. Will having the operator's manual for a skidder prevent a jill poke from injuring or killing its operator? No other OSHA standards requires that the operator's manual be at the work site. This is ridiculous.

No. 5, first aid is important when injuries happen at the work site. Why does this industry need to have a medical provider review and approve the first aid kit and why is this the only industry which mandates what is to be in the kit?

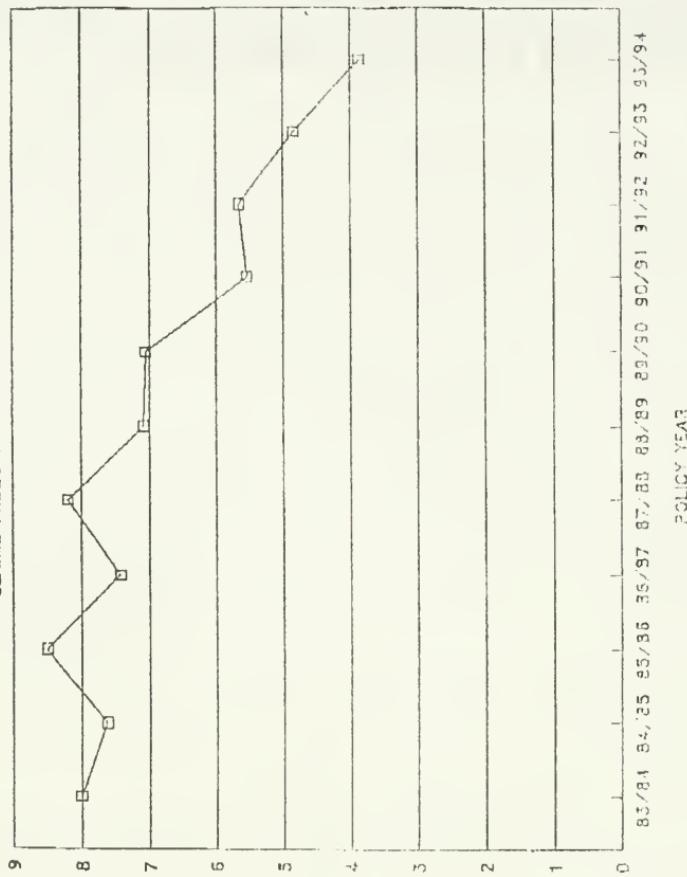
These are just examples of how the regulation burdens the small business logging operator. As I said, this rule is a fine example of government interference without government accountability for its

actions to the working people of our industry and the imposition of additional burden on the small business operator.

[Attachments to the statement of Mr. Miller follow:]

# TIME LOSS

## CLAIMS FREQUENCY HISTORY



NO. CLAIMS / \$1,000,000 PAYROLL

The frequency rates when comparing the two 3-year periods of 7-1-88 to 6-30-91 and 7-1-91 to 6-30-91 have decreased substantially. In fact, the most recent 3-year period had the same rate as the previous 3-year period, there would've been an additional 95,000.000 in claims cost involved. In other words, because of the frequency decrease, \$5,000,000 in claims cost has been saved during the period of 7-1-91 to 6-30-94.

PERCENT OF SELECTED ACCIDENT TYPES	TOTAL ACCIDENTS	NO. OF ACCIDENTS INVOLVING THE FOOT	PERCENT OF THE ACCIDENTS TOTAL	OSTEOPATHIC PRACTITIONERS		NO. OF ACCIDENTS INVOLVING THE FOOT		PERCENT OF THE ACCIDENTS INVOLVING THE FOOT		NO. OF ACCIDENTS INVOLVING THE FOOT		PERCENT OF THE ACCIDENTS INVOLVING THE FOOT	
				NO. OF ACCIDENTS INVOLVING THE FOOT	PERCENT OF THE ACCIDENTS INVOLVING THE FOOT	NO. OF ACCIDENTS INVOLVING THE FOOT	PERCENT OF THE ACCIDENTS INVOLVING THE FOOT	NO. OF ACCIDENTS INVOLVING THE FOOT	PERCENT OF THE ACCIDENTS INVOLVING THE FOOT	NO. OF ACCIDENTS INVOLVING THE FOOT	PERCENT OF THE ACCIDENTS INVOLVING THE FOOT		
11-1-63 TO 10-31-64	429	32	7.4%	—	—	675	—	810	—	13	—	107	—
11-1-64 TO 10-31-65	462	46	9.9%	2	4.8%	618	4	635	4	56	4	70	4%
11-1-65 TO 10-31-66	524	34	6.5%	3	8.8%	545	1	525	1	31	1	53	1%
11-1-66 TO 10-31-67	595	52	8.7%	1	2.0%	525	1	425	1	25	1	63	1%
11-1-67 TO 10-31-68	764	65	8.5%	6	9.2%	615	6	615	6	54	10.9%	73	9.5%
11-1-68 TO 10-31-69	767	83	10.5%	9	11.0%	625	7	625	7	52	7.3%	62	7.3%
11-1-69 TO 10-31-70	659	62	9.3%	7	11.5%	645	9	645	9	55	9.5%	65	9.5%
11-1-70 TO 10-31-71	692	92	13.4%	9	9.8%	635	9	635	9	55	10.9%	55	10.9%
11-1-71 TO 10-31-72	78	11	13.9%	2	2.5%	625	0	625	0	55	25	55	25
11-1-72 TO 10-31-73	648	64	9.8%	6	9.3%	675	6	675	6	55	10.9%	55	10.9%
11-1-73 TO 10-31-74	521	7	13.0%	2	1.5%	515	2	515	2	35	1.5%	35	1.5%
11-1-74 TO 10-31-75	366	55	15.0%	4	11.2%	575	4	575	4	55	10.9%	55	10.9%
11-1-75 TO 10-31-76	223	33	14.1%	3	11.1%	615	3	615	3	35	11.1%	35	11.1%
11-1-76 TO 10-31-77	414	57	13.8%	2	4.8%	625	4	625	4	47	11.2%	47	11.2%
11-1-77 TO 10-31-78	366	54	14.7%	4	11.0%	635	4	635	4	47	11.2%	47	11.2%
11-1-78 TO 10-31-79	429	51	11.8%	1	2.0%	555	1	555	1	47	2.2%	47	2.2%
				64	1.5%	64	11.3	64	1.5%	55	1.5%	55	1.5%

There has been a substantial reduction in chairman laceration claims since the Q.E.B. began in 1954. Only one thing can explain this and that is the required use of caps and the enforcement of that requirement.

Eye injuries have remained fairly consistent as far as a percentage of the total injuries. For some reason there was an increase in the frequency of eye injuries for the most recent period.

Other face injuries have remained very consistent as far as frequency as a percent of the total. The percentage is small considering other injury types. This makes a good case for not having both eye protection and other face protection. The other face injuries simply are not a problem or a concern.

Laceration injuries to the foot are a very insignificant number. There should not be a concern especially if "Kevlar" boots are being advocated just to prevent these injuries; there is simply nothing much to prevent. Lacerations to the foot involved 1/2 of 1% of the total number of injuries and 2/10 of 1% of the total cost of injuries over a 15 year period.

Senator BURNS. Thank you, Mr. Miller. I see that's timing. That is really good timing. If you ever think about the broadcast business you might work out just fine.

I see our two friends from Denver and Washington have been writing down all the answers to what Mr. Miller and Mr. Hansen—the questions that come up. I guess I get into a situation where in this business of writing rules and regulations, one size fits all just does not work very well and what might work in one part of the forest does not work very well in the other. John, I do not know.

The reason I called Dwight up here a while ago is because there was a question that came up, and I guess you call them danger trees now. We used to call them widow makers a long time ago. Tell me more about the danger trees and how this part of the rule will affect you and explain how that rule will fit when you start working salvage areas.

Mr. HANSEN. Many times, Senator, when you—

Senator BURNS. Pull that microphone closer.

Mr. HANSEN. Many times, Senator, when you address a salvage sale, the way OSHA's rule reads, most of the time you would not even be able to leave the road. It says you will have no activity around two tree lengths of what they are calling a danger tree, be it a standing dead tree, a snag or another tree that happens to be leaning into another tree. That is what we consider a danger tree. OSHA is calling for mechanical means of removal in this situation. Many of the types of operations that we have in Montana, there is not a machine available to mechanically remove a danger tree or a snag, be it high lead logging systems, helicopter operation, and even some type of mechanical systems. If you happen to be in a stream-side-management zone, you cannot put a machine in there to remove that hazard.

Senator BURNS. Do you want to react to that, Mr. Baxter?

Mr. BAXTER. Senator, in my previous summary, I left out a very significant point. One of the things that we have recently done is to put together a logging field directive, which is the way OSHA identifies for its compliance officers and others how we are going to implement a particular standard. We have attached that to the statement that I have given you. I'd like to enter it onto the record.

And in that directive we addressed this particular issue. In the preamble to the standard itself, we did indicate that the practice was prohibited. After hearing comments and realizing that we were wrong in that area, we have changed in this directive and that practice is not prohibited. We don't think it is the safest way to do it. But we realize, as the industry has brought to us, that there are situations that will make it necessary or the best way under the circumstance. We just do not think it is safe. So in truth of fact, that particular issue has been resolved, I believe, in the directive.

I only brought 20 copies of my comments and the directive. I would be happy to give them to people and try to make them available also.

Senator BURNS. OK. I guess what we are going to do, just like you are answering and the way you responded, John, is something that sort of mystified me. Mr. Sauger, whenever you start writing or rewriting the rules—first of all, let us say that you want to rewrite this thing. Before you make them final do you ever bring

them to the Department of Labor or do you bring them to the Labor Committee on the House or the Senate side or members of that Committee and go over these things before they finally go out into the Federal Register?

Mr. SAUGER. Are you talking about a proposal stage?

Senator BURNS. Yes.

Mr. SAUGER. OK. What normally happens in our rulemaking process is that when we decide that there is a subject matter that is of significant importance, such as the logging industry, as already previously mentioned about the high accident rates and so on, we begin to develop accident data. We start looking at what existing standards there would be, which are primarily the consensus standards which Congress said that we had to give particular deference to, our State standards, standards of maybe associations of States; or, any other data that we could get. All right. Then we will put together a proposed standard, all right, trying to explain why we are doing what we are doing and so on in the preamble. Then this has to go through legal review. Once it has cleared legal review it has to go through departmental review. And then once everybody has approved it up through the Secretary of Labor, then it is published in the Federal Register as a proposal.

As a result of this proposal we allow public comments. We allow people the right to request hearings. In fact, when we do have a request for hearings, these hearings will be held where they are most convenient to the people that are requesting the hearings. Once we have gone through this comment period and the hearings, then the record is normally maintained in an open position for an additional period of time. The administrative law judge at that time will normally hold it open for like 60 days, and then there is an additional 60 days to rebut it and so on. Once the record is closed, our lawyers have told us that, because of the fact that we have problems with ex parte communication, we cannot actively participate in comment or criticism or anything from any particular party. We have to use what is in the record to develop a final rule.

Senator BURNS. You know, we could solve a lot of problems if we changed the process. And here we are now. I am not a lawyer. I have never been burdened with that. But could not we save just a lot of problems if somebody from the Labor Department, somebody from your office, notified the committee of jurisdiction, like the Labor Committee, Miss Kassebaum is the Chairman of that Committee, to get a hold of her or the people involved in that and also before the final thing comes out to allow at least the elected representatives, people who represent both sides of the issue, because I have got just as many friends that work in the mills and like safe work places as I do who employ those people, and sort of when we come out with those rules and regulations, and even before we go into the comment period, we have got most of the bugs worked out? Is that not a common sense way to approach that or am I—that is contrary to the way we do business in that 13 square miles of logic-free environment; isn't it?

Mr. SAUGER. You got it, sir. You got it. Like I said, once the comment period is closed and so on, all right, basically our lawyers have told us that we cannot communicate with any single parties because it would prejudice—necessarily prejudice the rulemaking.

I am in agreement with you. I do not like that idea. I would rather have additional input from people because it obviously would make my job infinitely easier. But we have to do what our lawyers tell us.

Mr. BAXTER. Senator, one of the things that OSHA is doing at this time, and it is consistent—I was not aware of Secretary of Labor Reich's letter that was read today—but it is consistent with part of the message that I wanted to deliver, the agency is examining different ways of setting standards that are more effective than those we have used in the past. One of those that would be consistent with what you are saying would be to have negotiated rule-making, which we are trying to do on fall protection, where you bring in all the parties of interest including labor organizations and trade associations. I am not sure what the level of involvement of persons like yourself, etc., should be, but we try to bring in stakeholders as we call them, everybody who is going to be involved and affected by that standard, and bring them in and start development of a standard with a set timeframe to try to meet. This would take 12 months or 18 months and become a consensus standard developed by anybody involved in or interested in the standard. We are trying to do it on standards as they come forth. As has been read here, this standard started in 1988. This is not a new administration initiative. It was completed in this new administration but started far before that.

We also have set up and are establishing a new standard planning system within our agency, which is also consistent with what I think you are asking for, working with stakeholders to better identify priorities and other methods of addressing hazards. We brought in 200 different representatives from business, labor, State, local government, professional organizations to try to set priorities on what standards we should be working on, what are the real hazards that have to be addressed, and tried to prioritize them based on all the input from the larger audience. "Well, in logging in that 10-year period I am talking about, there were 1,492 loggers killed in this country." In Montana alone, from 1973 to 1994, you lost 91 of your loggers. We see that as significant and it would give us impetus to start a standard.

However, this new arena would bring a lot more people to see logging as more important, or, is maybe something worse happening in the construction industry? So, we are starting to explore different and better ways of setting our standards and have already started to move in that direction.

Senator BURNS. I do not know. You look like you have a comment.

Mr. HANSEN. I guess my main comment is something that just touched me there, that again I hear that you are trying to address and you are trying to eliminate all the hazards that exist in the woods. And I can tell you right now, it is an impossible feat. You cannot take that factor away. It is a variable environment that is constantly changing, and a lot of times by making set rules you put people in situations that are more dangerous than the situation they are trying to avoid.

Mr. BAXTER. If I can respond.

Senator BURNS. You bet.

Mr. BAXTER. I was not alluding to the fact that we are going to try to identify and root out every possible hazard in a particular industry. The direction we are trying to go in is what we call focused inspections. We are doing this in the construction industry, and as I listen to what is going on in the logging industry, it might lend itself to that industry. What you do is you look at the injury, illness and accident experience in a particular industry and try to find those serious hazards that are killing people and focus on them.

For example, if most of the fatalities in the logging industry occur in logging operations such as felling trees, we would focus on trying to correct that and get out of the issue, for example, of did a physician look at my first aid kit. We have to stop looking at issues such as that and focus on identifying those real hazards that are killing people, such as vehicular accidents, struck by vehicles or skidders, etc. Just focus on those areas when we go into the woods and not try to address every possible thing that can go wrong in the logging industry.

Senator BURNS. Tell me about—Mr. Miller, did you want to respond? Did you have something that you wanted to add?

I am going through the process here because what I am trying to do is try to get out of this business of confrontational or adversarial conditions to where we can work together and still provide a safe work place.

Mr. SAUGER, did you come out of the woods? Did you work in the woods?

Mr. SAUGER. Have I worked in the woods? Not as a logger, no. But I do have and use a chain saw. I have done some felling. So it is not that I have no experience.

Senator BURNS. Well, I have used one too, but not like these guys use them.

Mr. SAUGER. I know that.

Senator BURNS. I am saying, see, what we see is simple, is in most of our States is that we have small—you know, we always think of the big lumber companies out there, but basically the woods are made up or most of the accidents are made up of very small what we used to call gypsos, and they are just struggling to make a living, and what have been—I was struck by the requirements of the footwear. Are these boots that you are requiring here, the standards you set on these boots, are they readily available and what do they cost?

Mr. SAUGER. To answer your question, sir, they are readily available. And what we had in the record where we had talked about protective footwear, the cost that they were talking about was two to four hundred dollars. And I can tell you right now the pair that I've got cost a lot less than that.

Senator BURNS. The regulations—the mandate. Anywhere did we asses risk or costs versus benefit?

Mr. SAUGER. All right. In the development of the standard we did what we call a cost-effectiveness analysis. I think I know what you are trying to lead toward, and if I may speak about that particular issue, we have one problem with it, and that is the cost-benefit analysis, all right. The problem that our agency has with the cost-benefit analysis is that ultimately it boils down to having to try to

put a dollar value on a human life. And the agency has always fought that idea. We do not like that idea. We do not think it is appropriate.

Now, what we have done is to cost the standard and then looked at, say, the number of fatalities that we believe would be prevented and determine a dollar figure for each fatality that would be prevented. And if that is reasonable, then we believe the standard is reasonable. But strictly a cost-benefit analysis is something that, like I said, we do not want to have to say that a human life is worth \$1,000,000, \$10,000,000, or some dollar figure like that. If you take it to the point where you evaluate the cost and the benefits directly, that is the only way you can do that.

Senator BURNS. Let me tell you what the thinking that led to the maintenance of the vehicles that you talk about in this rulemaking thing mandating that the employer be responsible for the maintenance of vehicles used to get to off-road sites including employee's private vehicles. I do not think when you and I commute from our homes, I do not know where you live in the Washington area, but I do not have anybody telling me what I should do to my old van in order to get from my house to the office every morning and at night. Give me the process behind that.

Mr. SAUGER. OK. Basically this is one of the areas where there was a lot of misunderstanding. In the standards—I will use the more commonly used words—when we require the employee or the employer or somebody to look at or inspect that, to the real world that means you look at. All right. We want them to look at vehicles, machines, tools and equipment and personal protective equipment so that it is serviceable. No more; no less. Now, to us, serviceable, and like with your vehicle, if you were going to drive out in the woods at 4 o'clock in the morning, you need headlights; all right? If you do not have headlights, we would expect the employer to tell the person, I am sorry, you cannot drive your vehicle out here any more because you are going to have an accident.

Senator BURNS. No. That is true. My own vehicle is so bad they would not want to ride with me any more.

Mr. SAUGER. Mine is in the same shape. No. But we put a critical limit on the area of serviceability. Now, if you do go out there in the morning and it is bright out, you do not need your headlights. All right.

Another condition that comes to mind with the vehicle is brakes. If you do not have brakes on your vehicle and it is unserviceable, you should not be driving it regardless of where you are trying to drive it. And those are the types of conditions that we would expect the employer to tell the employee, I do not want you driving it out here.

Senator BURNS. Now, whenever we do this though, whenever we write this in the rules, here is the problem. What you just told us is basically common sense. Any freshman in high school understands that. Anyhow, whether they use it or not, it does not make any difference. But that is just common sense. We all know that.

But here is the problem that we have, Mr. Sauger. It is this: That once it is written into a rule, under the defined wisdom of the Department of Labor, and it comes down to Mr. Baxter in Denver and he passes that rule along to the OSHA person in Montana, and

all at once this guy walks out there one morning and this guy is going to work about an hour earlier in the morning and he has only got one headlight, that is a fine. He interprets that and he writes that up as a fine.

Now, we know what you were thinking about maybe this is common sense, maybe we should just recommend things. But to the people who have to carry out the rules and the regulations, the people on the ground, they interpret that entirely different than the way you think because they cannot crawl in your head. They come down in black and white and it says right here that vehicle has to be safe; it is not safe and I am going to fine him \$200. Nobody said it is \$200. He is just going to pull the figure out of the air. This is why we have got to be very careful whenever we start writing rules and regulations even on common sense that we get down to this situation of a person out here that wants to move up, and the only way he can do that is to show that he is doing his job.

And I think that is the main frustration that we all feel whenever we start looking—we are not saying that it is not a good rule. We are saying you are putting a common sense thing into black and white that makes us vulnerable to economic penalties. And that is why I think that there is a good deal of frustration going through the logging community, or even going across Congress right now, that all of this is just—it just branches out because, Mr. Baxter, he is going to do what you tell him to do.

Mr. BAXTER. I would like to address that. OSHA has in the last 12 months begun to change its culture, and it is a cultural change we are aiming for. When I started in OSHA back in 1975, my job was a law enforcement officer. When I saw something wrong, I wrote a ticket and that is the way it went. Over time I realized you have to have common sense. There are issues to be dealt with and everything is not black and white. It changed my approach.

The agency itself is changing its approach. We started in the construction industry and it goes back to a program we call focused inspections. We are telling our guys in the compliance offices in this area if you are on a construction site, size it up for its overall safety and health effectiveness. What does it look like from your first eyeball experience? Talk to people. Is someone in charge of safety? If the answer is yes, it looks like a good site, looks like someone is in charge, then what we want the compliance officer to do is focus on only those hazards that are likely to cause serious physical harm or death.

And we have actually identified hazards to look at such as falls, possibilities of electrocution, possibilities of trench cave-in. That is what you look at. If those hazards are not there, you leave the site. If you happen to see other-than-serious hazards, you bring them to the employer's attention and say, "That is a hazard; I want you to get it fixed and the next time I see it you will be cited; this time you will not."

But that is a major change to our organization which we are encouraging on a daily basis. Will I tell you we are there? Absolutely not. That is the direction we are heading and that is the direction I tell the people who work here in Montana, who work for me, and

that is the direction I give them. I want common sense applied here. That is what we are aiming for. We have a way to go.

Senator BURNS. You got older eyes and those younger eyes do not see things like you see sometimes, and he is just out there to make a job.

John, tell me a little bit. I was interested in full face protection. Some people say here is a regulation that could be more harm than good.

Mr. HANSEN. Mr. Senator, pertaining to eye protection, the Montana Logging Association, we promote eye protection but we believe that should be an individual's own personal preference of what type of eye protection they choose to wear. Some people, granted, they accept a screen, but in many cases most people do not accept a full face screen simply from the fact it wraps around your face and takes away peripheral vision, which is a very big part of timber falling. You need your peripheral vision. You need to see things out of the corner of your eye. In the wintertime they can tend to fog up, decreasing your visibility again. So again, by making something be mandatory we are creating more hazards than the hazard that is already out there.

Senator BURNS. Mr. Miller, and along with that line you mentioned first aid kits.

Mr. MILLER. Yes. This—

Senator BURNS. I want to ask you a very personal question and I will not play the devil's advocate here. Why is it not just good common sense that the first aid kit have everything in it that is supposed to be there?

Mr. MILLER. That makes common sense. But to have a health care provider review a first aid kit that you already have a list for mandated, that leaves the common sense. We have made up our first aid kits for years because they were not commercially available and we—in the State of Idaho—and we feel we have a good kit. And basically the latitude for us to maintain our kits and the way we have used them, which we have had very good success with it—with the equipment that is in there to take care of the injuries we have seen. But we are losing that latitude to use that type of equipment.

Senator BURNS. Those are all the questions that I presently have for this panel. We will take your testimony. We want to thank Mr. Hansen and Mr. Miller. All your written testimony should be submitted and we will make it a part of the record.

I would just like to remind you that it just seems like to me that it is a lot better if—I wish the Department of Labor would talk to the Department of Interior. I wish Interior would talk to the Agriculture. But they do not. Everybody just takes off and strikes out and does their own thing, and the one size fits all as far as working in one part of the woods and not the other part. So I am sure there will be other questions.

I would ask Mr. Sauger and Mr. Baxter, we will have some more questions for you. We want to leave the record open. If you will submit those to the individual Senators and to the Committee upon receipt I would appreciate that very much. We will leave this record open and we thank you for coming and we are ready for the second panel. Yes, you want to—

Mr. SAUGER. I would like to say one more thing. The problem that was pointed out about the first aid kits and the doctors' or health care providers' approval, we have made some mistakes in the standard. I will be the first to admit it. What we intended was, and if you follow the list that was in the standard in Appendix A, you would not have to have this kit approved by a health care provider. However, if you deviated from that list, then necessarily your training and the contents, all right, should be approved by a health care provider. We are looking at like the emergency room doctor that would have to treat the person and that type of thing.

Now, we are in the position of starting to prepare a corrections notice and a notice of technical amendment to try to eliminate some of those problems. We appreciate the input that we have gotten here today and the subsequent input that we hope to get from interested parties, so that we can make this standard a better standard.

Senator BURNS. Well, we will load you down with some information. I am sure we will have a lot of suggestions before the day is over to make it workable and then I think that is what we want to do. And we realize that safety is still number one and we do not like some of the situations. What I see every time you put something in this damn Federal record, it makes us available and vulnerable to fines.

Mr. SAUGER. Yes, sir.

Senator BURNS. And then we have got to argue with you. And then it just does not make for a very good working relationship when basically we should be working together on some of these problems that we have with safety in the woods and trying to make a safer work place, but we also have to make a work place that we can make a dollar and feed our families and support our communities. That is what I am trying to get to here.

Mr. BAXTER. Can I say something? Being that I come from this jurisdiction, I would like to say to the individuals from Montana that we would like to encourage dialog such as this. It does not have to be so formal, but I encourage it within the confines of our region which covers five additional States in the surrounding area of Montana. We did have a relationship I think, and it was fairly good, with the Montana Logging Association prior to the implementation of this new standard. I would like that to continue. I encourage the use of the Montana State Consultation Program, who has qualified logging people available to work with the programs. And really this is—I think you alluded to it earlier—the right way about going about safety and health—to work at it together, not in an adversary relationship. And I encourage that somehow we get together and work together on making this a safer industry.

Senator BURNS. I am just trying to keep a lot of stuff out of that Federal Register that just does put us on a very, very questionable position to where we have to knuckle under to some people who look and nitpick and do some funny things because we have seen those kinds of folks operate. And that is what I am trying to do with these hearings. And you can also expect that, Mr. Sauger, we will probably have some hearings in Washington after we have these hearings around the country. We will be talking about this so this is not going to go to waste.

Thank you very much and I appreciate that, and we will call the second panel up.

Thank you for coming. And panel number two—and this is where we will get down to, I hope, some folks that will be giving us some information to take back to the Department of Labor. Rick Smith, Smith Logging in Kalispell; Paul Tisher, TBC, Incorporated of Libby; Jim Butts, I think that is what I have on my list anyway, Bigfork; Joe Bache, Plains; and Jerry Robinson from Robinson Logging Company in Riggins, Idaho. So we welcome you, gentlemen, and have we got everybody here? OK. I will just take them as you are listed here on the panel. We appreciate you coming today and we ask you to summarize your statement and your full statement will be put in the record and it will go in as a visual hearing.

We appreciate you coming, Rick Smith of Smith Logging in Kalispell.

**STATEMENT OF RICK SMITH, OWNER, SMITH LOGGING, INC.,  
KALISPELL, MONTANA**

Mr. SMITH. Thank you, Senator Burns. I am Rick Smith, owner of Smith Logging, Inc., which employs six other people besides myself and my wife, Deb. Deb keeps our books and runs errands for the business, besides substituting part time for School District 5, and raising our four kids. Her efforts allow me to spend more of my time in the woods, where I am a working member of my crew. I am wearing these clothes today to point that out. These are the clothes I wear to work every day. I am not some office jockey.

Senator BURNS. You really know how to make me feel bad; do you not?

Mr. SMITH. I guess. I've been in business since 1987 and I am really proud of the fact that since I have been in business none of my guys has had a lost-time accident. We currently enjoy a .73 Workers Compensation mod factor and I am told that is as low as I can go on the volume at which I operate. So I think I know a little bit about safety.

At my job I am terribly busy. I am working in the woods with my crew everyday. I bid or negotiate our logging contracts. I take care of job layout and planning, log quality, maintenance and safety.

Let me start laying out some of the stuff we comply with already. We have the safety program from Montana; we have the Montana Workers' Compensation regulations, post-employment physicals, statement of safety policies, job descriptions, safe operating procedures. More bureaucratic nonsense. We have the State code which we recently revised from the State of Montana. Actually this is a pretty good book. It is well-written and it is clear, concise. Guys out on the ground—you can pack it in your pickup, it is durable and you can understand it unlike some of the OSHA writings. We also have our tailgate safety meetings and we keep records of that in this book. In short, we are doing an awful lot for safety. Every spring I pay my crew a day's wages to attend first aid and CPR training courses that are put on by the Montana Logging Association. We have an awful lot of paper work, and I think we are also doing an awful lot to support the industry just by all the paper we are using. I make fun of all the paper work, but actually most of

the rules and regulations here are reasonable, fairly well-written and we can live with them.

It is too bad we cannot state the same about OSHA. These are MSDS sheets, Material Safety Data Sheets. We have to have one for every substance we use in our operation that might be hazardous on the job. This is despite the fact that the products we are using in logging can generally be found in almost any household or garage in the country. Most of the stuff we are using like gas, oil, you store in your own garages at home. Deb and I spent hours going to our suppliers gathering up all these sheets, one for each product. I was shocked for instance to find that we had to have a separate sheet for every different color of paint we had stored in our shop.

Next we have the Blood-Borne Pathogens. I paid my crew to attend a training session on Blood-Borne Pathogens. The health care provider that instructed the course informed us that in our occupation the risk from Blood-Borne Pathogens was infinitesimally small and did not warrant OSHA's program. But we followed the law, we established the necessary record keeping and we bought the proper Blood-Borne Pathogen kits with protective gloves and face shields and a one-way mask for administering CPR. I could never figure it out, though, Senator. If I had a guy hurt, not breathing and we are out in the woods where we usually work, how would I have the time to go to the pickup to get my mask, gloves and face shield?

Lock-out, Tag-out proposals did not make the list of stayed regulations. They should have. Under this rule if you are performing any kind of maintenance on a machine, you have to have the machine in a zero energy state, which is reasonable, and unhook the positive battery post, which is kind of ridiculous. You also have to display tags on the door and by the switch that starts the machine, stating your name, type of maintenance, time and date. I hope that when Earth First comes up to work on the machinery they fill the tags out properly!

Other members of this panel will address OSHA's 12 stayed rules. The point I would like to make is this: OSHA is putting tremendous paperwork and financial burden on small logging firms. It should be the responsibility of OSHA and other agencies to review the regulations they write. If a regulation is more onerous than the problem it was designed to address, it should never be enacted.

[The prepared statement of Mr. Smith follows:]

## RICK SMITH, OWNER, SMITH LOGGING, INC.

Hi. I'm Rick Smith, owner of Smith Logging, Inc. which employs 6 other people besides myself and my wife, Deb. Deb keeps our books and runs errands for the business, besides substituting part-time for School District 5, and raising our 4 kids. Her efforts allow me to spend more of my time in the woods, where I'm a working member of my crew. I also bid or negotiate our logging contracts, take care of job lay-out and planning, work with foresters and land managers, look after log quality, see that our machinery is well maintained, and along with a host of other duties, I am the guy that's responsible for the safety of the men I work with. I'm proud of the fact that since 1987, when I went into business, we have not had a lost time accident. We currently enjoy a .73 worker's compensation mod factor, which I am told is as low as it can go on the volume at which I operate.

I don't believe safety should be just a program; it should be the way operate, day-in and day-out, every day. This isn't to say we don't have a safety program. Thanks to Paul Uken and the Montana Logging Association we an excellent one. We also have to comply with state code, which has recently been updated and is being now being reprinted. We comply with worker's compensation rules. We hold tailgate safety meetings. Every year I pay my crew a day's wages to attend first aid and CPR training courses put on by the Montana Logging Association. In short we've been spending a lot of time, money, and effort on safety. We've also been supporting our industry by using a lot of paper! I make fun of all this paperwork, but most of these rules and programs are necessary, clear, well-written, and pretty reasonable.

Its too bad we can't say the same about OSHA. These are MSDS sheets. Material Safety Data Sheets. We have to have a sheet for any product which OSHA says could pose a hazard. This, despite the fact that the products we use logging can generally be found in most any household or garage, and that warnings are already found on their labels. Deb and I have spent an incredible number of hours obtaining these sheets from our suppliers and wasting their time as well. I was shocked, for instance, to find that I needed a separate sheet for each different color of paint that we stored in our shop!

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and by the switch that starts the machine, stating your name, type of maintenance, time, and date. I hope that when Earth First comes up to work on my machinery they fill out the tags properly!

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Thank-you.

Senator BURNS. Thank you a lot, Rick. I appreciate those insightful words.

Paul Tisher.

**STATEMENT OF PAUL TISHER, PRESIDENT, TBC TIMBER,  
LIBBY, MONTANA**

Mr. TISHER. Thank you, Senator. My name is Paul Tisher. I live in Libby, Montana. My partner's name is Paul Brown and we own and operate TBC Timber, a small family-owned business. We have been in business for 15 years and have nine employees other than ourselves. We are also working members of our crew.

One of the new rules which concerns us most is under D. General Requirements Number Five called Environmental Conditions. It reads: All work shall terminate and each employee shall move to a place of safety when environmental conditions such as, but not limited to, electrical storms, high winds, heavy rain or snow, extreme cold, dense fog, fires, mudslide and darkness may endanger an employee in the performance of their job. Senator, the interpretation of these conditions can mean many things to different people. I can tell you, there have been many times when our crew has had to sit out a storm, whether it be wind, rain or snow. But, the weather will be what it will be and we as stewards of this land will be out there in the elements to support our families and sustain our communities.

Another proposed rule that ties in with these environmental conditions is under Tree Harvesting Number Two Manual Felling, Section Number Three. It reads: Each tree shall be checked for accumulations of snow and ice. Accumulation of snow and ice that may create a hazard for an employee shall be removed before felling is commenced in the area or the area shall be avoided. I hope that OSHA did not intend for us to remove the snow and ice by ourselves, especially knowing that this would create an even greater hazard. That leaves us with the two things that usually remove snow and ice from trees, and that is wind or rain. Senator, this really becomes confusing at this point. We cannot work if there is too much snow or ice in the trees. So we finally get a good hard rain or some chinook winds that remove all the snow and ice, but we cannot work under these conditions either. Then as conditions turn colder, it starts to snow and we get more build-up in the trees. This can go on for six to seven months in Montana and leaves us wondering how we are going to be able to work under this type of rule.

Who from OSHA can determine if conditions are too dangerous to work in? What degree of wind, rain, snow, cold or fog will constitute a total shutdown or the ensuing penalties if operations are still working when they arrive? What experience do they have in logging procedure and working with outdoor elements that tells them one or more of these conditions is too dangerous? We feel that the decisions on environmental conditions should be left to the people who make their living doing this and not by the Federal Government.

Being members of the Montana Logging Association, we as a crew have all had training in First Aid, CPR, Blood-borne Pathogens, Material Safety Data and Safe Operating Procedures. This

training is done annually and is a key to recognizing unsafe or potentially unsafe conditions. Holding ourselves to these standards has become the norm in this profession we call logging.

Having said that, I would like to comment on a procedure used by OSHA compliance officers during a job site visit. This is the use of a video camera when questioning employers and employees about the training they have had in reference to what I just talked about. This camera-in-your-face session gives one the feeling that you have already done something wrong or why would they want to get it on film in the first place. I am sure that somewhere, in all of the many hours of training we have had, someone will forget something, but that does not mean that all of a sudden we are in a hazardous situation. With the camera rolling and knowing that the wrong answer to a question can result in a training violation and cost an employer up to \$7,000 per violation and also knowing that you have not done anything wrong and that you are not in a hazardous situation nor have you created a hazardous situation for a fellow worker is frustrating and intimidating to the point that the easiest of answers can be forgotten.

Senator, logging always has been and always will be a dangerous occupation. We do not take this lightly. It is very clear to us that training for and providing a safe work place will not only send us all home safely every night, but it is also essential for a company to stay in business. If we believe in and practice these things then why do we need the Federal Government to enforce what is already being done? Common sense has been around a lot longer than OSHA and it will be on the job when OSHA is not. Please, Senator, let us not put any more rules into place that would jeopardize the use of good common sense.

Senator BURNS. Thank you, Mr. Tisher. I appreciate that.

Senator BURNS. Jim Butts, thank you for coming today. Pull that mike right up really close to you. Thank you.

#### **STATEMENT OF JIM BUTTS, OWNER, JIM BUTTS LOGGING, BIG FORK, MONTANA**

Mr. BUTTS. Senator Burns, 18 years ago my brother and I borrowed enough money to buy a crawler. Since that time my brother has moved on and I have continued logging under the company name of Jim Butts Logging. As well as being a working member of my crew, I employ seven men. Most of these men I have known since we were children. Some of them I logged with when our equipment said Tonka on the side of it as we tried to imitate the occupation of our fathers.

The point I wish to make is that my first concern in my logging site is the safety of my friends. The use of safety meetings and the use of safe operating procedures has been a positive step toward the safety in my business. Through the discussion and my crew involvement all of us had more developed that natural instinct to look at the overall job site and point out hazards. Not only are the men seeing the particular hazards in their own position, but in the position throughout the whole job site.

This awareness of hazards and the ability to reduce hazards comes not from rules mandated from a place that most of us have never been, but they come from the skills and the knowledge, expe-

rience and communication that comes naturally as we continue to work in a hazardous environment.

One concern I have at the trends of OSHA is to restrict our natural, God-given instincts such as visibility. I know that the new regulation regarding the wire mesh screening will do just that. A couple of years ago I had an operator and we were working on some heavy steep ground. It was heavy underbrush and you couldn't see a lot that was going on and he was working down the hill at a snail's pace when a front tire went off of a short rock shelf about 4 feet and it was enough to flop his machine end over end. Fortunately he was buckled in; he was not hurt. We got the machine down and were assessing the damage of the machine and talking about what had happened, and there was a screen on the outside of the machine that had been an add-on protect to the pre-air cleaner. And he said, "You know, when I am running that machine, since that screen has been on there, that guard, it messes up my overall view." Not that it was blocking any one area in particular, but it was taking something away from the whole picture and he was not seeing everything clearly.

And this is one of the fears I have of adding these screens onto our older machines that were designed not to have them. And the new machines that are coming out, they are engineered to have these screens, and the whole design is designed to take on these screens. But the older machines, making them an add-on I think we are creating a hazard.

We have a term in our business for small maybe Christmas-tree-size material that gets pushed over and knocked down, and we call these Joe pokes, and I am not sure where the term originated. Maybe some guy by the name of Joe got poked. But all the loggers in here today know of somebody that has been hurt or possibly killed by one of these, and that is another concern I have about screening my machines in the front. Again, they are not designed to take on these screens and these Joe pokes are going to come through those screens and it is going to act as a spear right toward our operators.

I had a fellow I was skidding along beside, it was good ground and we were skidding fast, maybe faster than what is really safe, but it was good going and I looked over and he was waving his arms. So I shut my machine down and I went over, and a Joe poke had gone in alongside the front chains on the skidder alongside the tire and his forward momentum ran that in through the cab. Now, he was not buckled in and fortunately he was able to swap that Joe poke to the side, and as it went through his coat it went out the back screen. If he had been buckled in or if he would have had a screen guiding that Joe poke, I think he probably would have been a dead man now.

So it is my concern that in the attempt to make the logging industry safer, we are in fact in some cases creating more hazards. I do not know where the balance is, but I think the balance needs to be found. I do not know the process or even if it is possible, but I ask you to help us to keep OSHA from taking away our ability to use our instincts for our own protection.

Senator BURNS. OK. Thank you, Mr. Butts.  
Is it Mr. Bache or—

Mr. BACHE. Bache.

Senator BURNS. Bache? Thank you for coming today. We are ready for your statement. If you would consolidate, we will put your whole statement in the record.

**STATEMENT OF JOE BACHE, OFFICER, LLOYD BACHE & SONS CONSTRUCTION, PLAINS, MONTANA**

Mr. BACHE. Senator Burns, members of the Committee, my name is Joe Bache. I am a third generation logger from Plains, Montana. My father, brother and I are owners of Lloyd Bache & Sons Construction. We operate a small logging and road building business employing 16 local people. Thank you for the opportunity to appear before this Committee of the United States Senate to discuss my concerns pertaining to the Federal logging regulations and the impacts they create on my business.

The safety of our employees has always been important to us. When Champion International was operational in Montana our company participated in their safety incentive program. In 1991 both the logging and road building crews placed first in this program. After the sale of Champion in 1993 we continued an incentive program of our own. Each quarter, bonuses are awarded to the entire crew for no lost-time accidents. As Mr. Butts has eluded, we in the logging industry are very close to the people we employ. We monitor safety daily and work closely with the MLA to insure safety on our jobs. The program works well for us, and therefore, I ask, "Why do we need these Federal regulations?"

Some of my employees, especially timber fallers, drive their own vehicles to work. I feel that I, as an employer, should have no control over vehicles that I do not own or operate. Vehicles that employees own and operate to transport themselves to and from the job are not the responsibility of the employer. Are other employees in other industries responsible for the personal vehicles of employees? I think not. Logging industry employers should not be treated any differently by OSHA than employers of other industries whose employees use personal vehicles to commute to and from the job. This regulation is best left to motor vehicle agencies and highway patrol of the individual States.

My father has passed his logging heritage to my brother and me. I have seen a lot of changes in the industry and have adapted my techniques and operations to those changes. I feel that OSHA has good intentions when they make safety rule suggestions, but they need to get some input from the industries' workers and employers. Thanks again for the opportunity to speak to you today.

Senator BURNS. Thank you. We appreciate your coming too today, Joe, because I know you have other things that you have to do on Saturdays other than come to a hearing.

Jerry Robinson, Robinson Logging Company from Riggins, Idaho. Jerry, welcome to Montana.

**STATEMENT OF JERRY ROBINSON, OWNER, ROBINSON LOGGING COMPANY, RIGGINS, IDAHO**

Mr. ROBINSON. Thank you, Senator. Senator Burns, Committee members, I am Jerry Robinson, Robinson Logging Company, Riggins, Idaho. I have been a logger for 31 years and have owned my

small business for the past 19 years. I have between 40 and 50 employees and utilize contract haulers to remove the logs from the woods to the market. I am a tractor and skyline logger. In my employment I have approximately 14 fallers. The tenure of my falling crew is from 10 to 35 years' experience. These men are professionals in their craft. They know how to access and evaluate each tree before it is felled. The sawyer must and does take into account many factors to assure proper and safe falling. Under the new OSHA logging standard, their experience and expertise is totally ignored. Here is an example of the new standards and its ignorance toward professional falling.

Hung up trees are very unpredictable. No one can accurately predict if or when one will fall unexpectedly from its own weight. If a tree is limb bound or hung in a group of trees, the new standard says to leave the hung tree and not work within two tree lengths of that tree until the tree is removed by mechanical means. Most of the time there is nothing mechanical in the area to remove the tree, and for skyline logging all the timber must be felled before you can set up the skyline. Tree driving is necessary and must be recognized as a safe practice. When falling timber on steep terrain, hung-up trees and limb bound trees can only safely be felled by falling or driving another tree into them. Trees tied together must fall together. This is the only practical and safe way of reducing the hazard. You must be able to have the flexibility to best determine safe practices.

Another unsafe condition could be created by attempting to follow OSHA's recommended procedures on the steep terrain found in Idaho. Using a skidding machine or mechanized falling machine on such ground to meet the standards' new requirement may violate one or more of the new rules, while exceeding the manufacturer's operating guidelines. Another example is many times the ground being logged is fragile land and the land owner prohibits logging machines from operating on it. Waiting for the high-lead system being used elsewhere to catch up and get to the danger zone created by a hung-up tree would be impractical and, most importantly, unsafe. Again, the safe method of eliminating the danger zone is to drive the hung-up tree to the ground.

OSHA gives us a contents list for first aid kits and then says that we have to have a health care provider review and sign off on the kits annually. Having OSHA's list approved by my health care provider is ridiculous and over-regulation. Tourniquets are on this list for first aid kits. The use of tourniquets is not being taught in first aid today.

These are examples of Washington, D.C., imposing an over-burdensome regulation on an industry in which they have no direct knowledge or practice. This new rule is vague and ambiguous. As a small business owner and operator, for me and my employees to operate under this new regulation is impracticable. We do and operate safely. We do and have complied with the OSHA regulations that directly impacted us before the new standard. This new standard, however, is too much of a burden for a small business owner.

Thank you, Senator Burns and Committee members.

Senator BURNS. We thank you for coming. Jim Butts, I want to ask you a question. I picked out a couple of things that you touched

upon and I would like to go one step further. The cost and the problem you talked about—you talked about cabs, screens and this type of thing. Give me an idea with the new rules and regs. that have come on now, what are you going to have to do to retrofit your equipment, and does it make it safer and what is the cost going to be?

Mr. BUTTS. Well, when I first heard about this, just checking around a couple of places about what it was going to cost to have these installed was around \$600 to a machine. That is not an exact number.

The second thing you asked was it going to make them safer? Well, there again, we are in a situation where if they would only let us use the common sense and the instincts that we have to make decisions like on the seat belts, there are places where seat belts, I think, are a bigger hazard than they are not, and so in order to make that situation safer they decided they would put screens on the front of them. Well, I can see all sorts of hazards coming from these screens. And of course there are the benefits that can come from the screens.

Now, is it practical to put these screens on the machines? We are told by the manufacturer of our rollover protective equipment that rollover protection is not to be welded on, there are not to be holes drilled into it, and so there is a problem created there as to whether we are weakening the rollover structure by installing the screens. Just seems there were a lot of things that were not taken into mind. Screens, oh, that is how we will take care of the hazards of possibly wearing seat belts in certain conditions. It was just an idea that somebody had, but it was not an idea from somebody who is actually out there working in these machines. That is my thought.

Senator BURNS. We—and I am going to come back to your point. Yes, go ahead.

Mr. ROBINSON. Senator, I would like to comment on that economically. The way we had OSHA come down and explain that to us and the way they explained it to us that we could not do any welding on those ROPS, we could not add the screens without it being tested and approved by the Association of Automotive Engineers. At this time there's no ROPS or FOPS that is manufactured for our older equipment. I assume that if anybody developed that it would cost in excess of \$10,000, which would virtually take our equipment and devalue it considerably. If you take a \$25,000 tractor today and you add \$10,000 to that, I mean, you are going to create a market where nobody is going to—your dealer is not going to take it in on trade on a new machine. There are going to be a lot of those machines out there that are not good for anything because they do not qualify under OSHA standards.

Senator BURNS. Did I see a light go on in your mind, Mr. Tisher?

Also I was coming back to you, Mr. Robinson. You were telling me about the conditions in which you worked in and how many times—especially when you fall a tree and you have one hang up or if you fall two and—I have been in the woods a little, but not to the extent that you people are, so if I cannot come up with the right terminology, you let me know. But in order if you have got one hung up then you have to work two tree lengths away from it.

How often does an inspector come up there and say just stay on—do they stay for a day to watch your operation, or I do not know how they operate. Give me an idea on how the inspector or the OSHA representative comes to your outfit and inspects you.

Mr. ROBINSON. Senator, in Idaho, unless we have a fatality we are not inspected, unless someone has called and asked for an inspection. We have never had an OSHA inspection yet.

Senator BURNS. In other words, it is not just done randomly without you being told, or do they call you—they do not call up and say, "We are going to be out there tomorrow"?

Mr. ROBINSON. Senator, no. If there is an inspection in Idaho, so far it has either been a fatality or there has been an employee requesting an inspection. And they do not notify you before they come.

Senator BURNS. Is that the same in Montana?

Mr. TISHER. Yes.

Senator BURNS. Rick or Paul? Either one. Does not make any difference.

Mr. SMITH. Actually right now, Senator, it is not the same in Montana. We have been designated a special project in Montana so OSHA can come up on jobs with fewer employees now.

Senator BURNS. All right. Weather conditions. Paul Tisher. Interested in that. Environmental conditions I guess is the new term to be politically correct; right? Tell me about in some conditions when common sense would tell you that it is not safe to operate.

Mr. TISHER. Oh, yes. I think anybody that has done this at all can tell you that the number of days where we will pull on to the landing, and if the wind is blowing or if it is pouring rain, if something has changed it dramatically from the day before, we are going to sit there and asses it, get out and look around. We might sit the storm out. But if it has changed dramatically, most everybody is going to have enough sense to either wait it out or go home.

Senator BURNS. Let me tell you something now. I get from your testimony today, and correct me if I am wrong, this panel here worked with their employees on the job site. In other words, you are swinging the axes and the chain saws and you are doing the slinging and you are also operating the equipment; is that correct?

Mr. SMITH. Yes, sir.

Senator BURNS. In other words, you are as much vulnerable to bad safety habits as your employees are; is that correct? [Panel nods.]

Senator BURNS. Now, do you find that different with bigger outfits? I mean, you folks look at—like you, Jim—you said the majority of the people you work with are kids that you were raised with. And you are not going to in any way put them in harm's way so to speak.

Mr. BUTTS. No.

Senator BURNS. Is it different with bigger outfits?

Mr. SMITH. Senator, I might answer that. Most guys that got to be bigger outfits started out as smaller outfits just like I have and kind of worked up through the ranks. I really do not know many contractors out there that work today that have not spent time working on the ground.

Mr. ROBINSON. Senator, I can comment on that. Like I said, I have between 40 and 50 employees. I guess because we did start out on the ground I am not very good at paperwork and I am out there with the crew everyday doing the same things that they are doing.

Senator BURNS. OK. We appreciate your testimony, and if you do not have any more comments, why, we will call the third panel.

I want to remind folks as the third panel comes up that if you have written testimony that you want to be made part of the record of the printed hearing we certainly invite your comments and we will take some of your comments later on.

I want to congratulate the representatives from OSHA. They have stuck around and listened to the testimony. I tell you what. In Washington I would turn the hearing around to where you hear from the bureaucracy after you have heard the testimony of all the people that are in the industry. So I appreciate them staying around and listening to this testimony, and we will do it up and we will make sure that they get a copy of it so that we can maybe help them out in making these rules.

Jerry Taylor from Thompson Falls, T&K Yarding; Toby Larson; Worth Nixon; Robert Funke and Doug Westfall, Westfall Logging over in Salmon, Idaho. If you fellows come forward and we will hear from you at this time. And I will just take you as you were listed on the panel. I was going to take a little break between yours and the last one, but my court reporter says drive on and so we will do that.

Jerry Taylor from Thompson Falls, Montana, T&K Yarding. Thank you for coming over this afternoon. I appreciate that very much.

#### **STATEMENT OF JERRY TAYLOR, CO-OWNER, T&K YARDING, THOMPSON FALLS, MONTANA**

Mr. TAYLOR. Thank you for having me.

Senator BURNS. Pull that microphone closer to you now.

Mr. TAYLOR. Senator Burns, members of the Committee. My name is Jerry Taylor. I work for T&K Yarding, which is owned by my brother. We operate a small, family-owned business. He employs three people. We have been in business for eight years. I have been employed with the company for six years. I have spent all 25 years of my working career in the timber industry, all of them in cable logging.

In reference to high-lead cable yarding, I understand that OSHA's Federal regulations do not apply. I assume that if an OSHA compliance officer were to visit a high-lead operation in Montana they would be utilizing the State standard for these operations. Mr. Senator, I then ask, if the State standard can apply to high-lead operations, why not utilize the State standard for all other aspects of logging in Montana? Why do we need a Federal regulation that may or may not apply to our specific situation?

Many times in cable logging we need to deal with danger trees, which include lodged trees. A lodged or danger tree creates a hazard that must be dealt with immediately. Careful, thought-out procedures must be used to eliminate these hazards. Each tree creates a different problem, and no two trees are exactly alike. Plain old

common sense is a must. For OSHA to develop rules that basically do not allow me to deal with these hazards in a manner I know is safe, and also reduces the hazards to my crew and myself, is totally wrong. Senator Burns, these rules simply need to be changed. For 25 years I have dealt with these situations, with good old common sense being the safety factor.

I do not understand how someone with no hands-on experience can force me into using methods that may or may not be safer. Even though we do our jobs safely, a citation and heavy fine could put us out of business.

We practice safety on a daily basis and have never received a citation, but in three months when our job is finished my brother has decided to get out of logging. The reason, Mr. Senator, is due to all the regulatory burden and intimidation that has been created. I would say my brother is fed up. Where does that leave the crew and myself? Probably in the unemployment line. How is that for free enterprise, which I thought this country was all about?

In closing, common sense, on the ground safety, training, skill, knowledge and awareness are what keep you safe, not this waste of wood products. Thank you, Senator Burns and members of the Committee.

Senator BURNS. Thank you, Mr. Taylor.

And Mr. Larson. Toby, thanks for coming. Carson Helicopters, Lolo, Montana. Thanks for coming.

**STATEMENT OF TOBY LARSON, FOREMAN, CARSON  
HELICOPTERS, LOLO, MONTANA**

Mr. LARSON. Senator Burns, members of the Committee. My name is Toby Larson. I am employed by Carson Helicopters as a bullbuck of the timber falling crew. I supervise from 10 to 20 professional timber fallers on a daily basis.

I would like to comment on the issue of "danger trees." Specifically I wish to address section (H), Tree Harvesting, subsection VI. OSHA states: Each danger tree, including lodged trees and snags, shall be felled or removed using mechanical means or other techniques that minimize employee exposure before work is commenced in the area of the danger tree.

Alluding to Mr. Hansen's testimony pertaining to the conflict between OSHA rule and Forest Service mandates, I would also like to point out that the Department of State Lands, industrial land owners, as well as non-industrial private land owners strive to retain snags or wildlife trees on their ownership. This issue is of such vital importance to this industry that it must be resolved. However, OSHA has elected not to stay this rule or revise it except for what they term clarification.

The Montana Logging Association in cooperation with State, Federal and industry groups is in the process of formulating guidelines for assessing the risk of danger trees. This will be an excellent tool for educating woodworkers and also for those wishing to leave danger trees for other purposes.

Senator Burns, this is a proactive approach to the problem. I suggest OSHA should also implement these guidelines in identifying danger trees. OSHA also states, That danger trees include lodged trees, and I presume that also includes limb locked trees.

They also state that these lodged trees need to be removed by mechanical means. Senator Burns, given the terrain and many of the logging systems used in Montana, removal by mechanical means is virtually impossible. With many of the stands of timber we harvest, a person would not be allowed to leave the road given OSHA's definition and constraints concerning danger trees. Again, with the lack of clarity of this rule, OSHA is limiting the options of the professional loggers. Also, with this rule, OSHA has again created more and possibly greater hazards than those that already existed.

We realize that this occupation we chose to make our living at is inherently dangerous. We accept the risk factor that our jobs incur, for no job exists without a given amount of risk.

Senator Burns, I respectfully request that OSHA revisit this rule pertaining to danger trees including lodged trees. OSHA must leave the risk assessment to professional woodworkers who deal with these situations on a daily basis.

I would like to thank you, Senator Burns, and the Committee for the opportunity to voice my concerns.

Senator BURNS. We thank you for coming today, and I have a couple of questions for you when we come back to you.

Worth Nixon, thank you for coming today, with Munro Logging up at Libby, Montana.

#### **STATEMENT OF WORTH NIXON, TIMBER FALLER, MUNRO LOGGING, LIBBY, MONTANA**

Mr. NIXON. Good afternoon, Senator Burns and Committee. I am Worth Nixon of Libby, Montana. I am currently employed by Munro Logging, a family-owned business. I have been a professional timber faller since 1976. I have fallen timber in Montana, Idaho and southeast Alaska, on tractor, high-lead and helicopter logging operations.

I will speak today about my interest in regulations by OSHA concerning timber falling.

My first concern is the humboldt stump. As a professional timber faller, I believe a humboldt stump cut level or above a good open-faced notch with adequate holding wood gives the faller better control and more steering options for falling trees. Options are extremely important to the safety of the faller. As a faller, my number one goal is safety.

My second concern is regarding eye protection. Very few timber fallers wear face shields due to the fact that they are uncomfortable, distort the peripheral vision and become obscured when chips or sawdust stick to the shield. Any one form of eye protection is sufficient, whether we use safety or prescription glasses or face screens. OSHA proposes mandatory full-face protection. The combination of the two, for people with prescription glasses, creates excessive glare and hampers peripheral vision to the point of endangerment to the faller. A faller is always looking skyward for hazards and is blinded by glare or obstructed peripheral vision. OSHA's proposed face protection regulation will create a visual handicap. This rule should be amended to allow the employee to choose which variation of protection is appropriate.

Next I want to talk about boots. Good boots are essential for professional timber fallers. We spend our work days climbing steep

ground and walking logs. MLA feels that currently available logging footwear more than adequately meets the needs of the industry. OSHA's requirements of a waterproof, chain-resistant, steel-toed boot may be impossible to fulfill, and those boots that come close to satisfying the requirements have disadvantages as well. There are currently Kevlar boots available, but they do not support the ankle well and do not breathe like traditional leather boots. Additionally, steel-toed boots get extremely uncomfortable when the temperature lowers and are heavier, clumsier and more awkward than those currently available, which may lead to more accidents due to slips and falls.

Comfortable footwear is very important and must be affordable and readily available. It also must be guaranteed to be warm, dry and sturdy, for the safety of timber fallers, in all weather conditions. Professional timber fallers believe that proper limbing and cutting techniques are more essential to safety than Kevlar or steel-toed boots. Cutting injuries to the feet are minimal according to Montana Logging Association's statistics.

Timber fallers work in all kinds of environmental conditions. Heavy snow and rain are common occurrences in Montana. Professional timber fallers have enough sense to cease operating during periods when dangerous weather conditions persist. We feel that dictating when a timber cutting operation should shut down due to extreme weather conditions is outside the scope of OSHA's mandate.

OSHA's over-regulation has created havoc and fear in the timber industry.

Do OSHA officers have latitude when assessing whether or not a safety rule was ignored for good reason? Does OSHA feel that Montana loggers aren't smart enough to work safely?

Does OSHA give loggers discretion to evaluate risk? Or does OSHA view safety in the woods as cut and dried? As we all know, no situation is ever the same. Does OSHA feel that Montana loggers do not have enough sense to figure out how to keep from injuring themselves? OSHA is treating the Montana timber industry like a bunch of half wits, incapable of a safety program.

Montana Logging Association safety personnel have been teaching and enforcing logging safety rules for years. We feel their program is very successful and well received. MLA has worked hard to promote loggers' safety in Montana.

OSHA is also using techniques to perpetuate intimidation and confusion. A logger in the woods finds a video camera shoved in his face while facing a barrage of questions. Is this not an intimidating procedure? This is equivalent to being jerked from your job, put on a witness stand in court and worked over by a prosecutor.

OSHA says their main concern is employee safety. Is it employee safety or employee confusion? Loggers need the options to be able to work safely. My main concern is safety. My goal is to be able to come home to my family everyday. Thank you.

Senator BURNS. Thank you, and thank you for coming today.

Robert—is it Funke?

Mr. FUNKE. Yes.

Senator BURNS. From Funke Brothers, Couer d'Alene, Idaho. I tell you how to pronounce it and then I mispronounce it.

Mr. FUNKE. You did all right, but you do not pronounce the E. Senator BURNS. Just throw the thing away. Thank you for coming.

**STATEMENT OF ROBERT L. FUNKE, OWNER, FUNKE BROTHERS LOGGING, COEUR D'ALENE, IDAHO**

Mr. FUNKE. Senator Burns, Committee members, I am Robert L. Funke, partner of Funke Brothers Logging, Coeur d'Alene, Idaho. I want to thank everybody for the opportunity to speak to the Committee on the impact the new OSHA logging regulation has on me as a small business owner. I have been a logger for over 35 years. My brother and I started our business 5 to 6 years ago. My wife does the books and changes the parts and we work together. We learned the logging business from my father and we are still learning—logging has changed so fast. We employ 11 people. I have to brag on these guys. They are really good men. I run the high-lead side and my brother runs the ground skidding side—we are working people there too; I load my logs and he loads his logs.

We have read and re-read these new OSHA logging standards and there is no question in our minds that this standard as it is implemented will impact our ability to run our business.

As a small business, we do not plan on getting rich; we plan on making a living for us and for our people. As a small business that has already complied with the previous safety and health standards and now is being confronted with this new standard, we are going to have to evaluate our crews and staffing just to meet the intent of the additional burden imposed on us. We are a small business. We do not have the luxury of being able to just add on additional crew members to meet the burdens now imposed on us. We are what we call in our industry a "gypo" and we are—I am proud of that term because we are able to meet our payroll and our obligations through safe efforts to bring the wood to the mills. We do not get paid until the mill gets what we log. We have to finance our operation and we are under scrutiny not only in the woods, but in the bank, and any additional undue burden is only adding to that scrutiny.

We log on Federal, State and privately-owned forest land. We have a major contradiction of how safe logging should occur between the new Federal standard and the State of Idaho standards. We, as well, have to meet certain criteria as to minimize damage to the environment, that to meet that criteria under the new standard is almost impossible. There is a major contradiction in what is proper. What OSHA wants; and what the Forest Service wants, and what the environmentalists want; are not the same. The new standards create an impossibility for us to keep everyone happy. It is most important for us to be able to log.

We in the logging industry have made great strides to improve our safety records and our safety practices. When we get confronted with this new regulation, we as small businesses are but between a rock and a hard place.

One of these rules is so vague, and because of that it is really impractical to be complied with. Requiring the employer in the logging industry to ensure that machines, including the personal vehicles of the employees used for transportation to and from work is

unrealistic. No other industry mentioned in the general industry standards of OSHA requires such a practice. This is really ridiculous.

And another thing, we do not have an office on the job site. Our pickup is our office. It is our maintenance shop and the fueling station. OSHA is mandating us to maintain records and manuals that have no place on the job site. Each operator knows his piece of equipment inside and out. There is no need to have manuals and operator guides on site. Again, this is an example of how OSHA has treated the logging industry totally different than the rest of the industry covered by the general industry requirements. Manufacturers are not required to have service and operating manuals at each machine center. Why do we have to be burdened with this?

The new standard is an example of OSHA not understanding our industry. We log whenever the weather permits in the hot summer and the cold winter, and to comply with some of these requirements forces us to expose our equipment to possible damage. For example, they do not want us to fuel our diesel engines while the motor is running, and that is a good time to let everything cool off because everybody has got a job to do before they go home at night. And these pickups that have the electric pumps and the vacuum fuel pumps, they have to be running in order to pump the diesel in or pretty soon you are going to be in trouble.

It is obvious to me that OSHA does not know what equipment costs to us small operators and does not know the proper operating techniques in keeping the equipment maintained. The new restrictions on fueling and servicing and maintaining just are not logical.

I would again like to thank you and the Committee. I would urge that our concerns as small business owners be heard. We do operate safely; we want to operate safely. However, to impose on us regulations which do not take the small business in mind is jeopardizing the future. Thank you.

Senator BURNS. Thank you, Mr. Funke. We appreciate that, and do not forget to leave your statement. If you have, like Mr. Larson has, some illustrations there, if you want to make that part of the record, well, it will sure be made part of the record.

Mr. Westfall, Salmon, Idaho, thank you for coming.

#### **STATEMENT OF DOUG WESTFALL, OWNER, WESTFALL LOGGING, INC., SALMON, IDAHO**

Mr. WESTFALL. Thank you. Senator Burns, Committee members, good afternoon. I am Doug Westfall and I represent Westfall Logging, Inc. of Salmon, Idaho. I want to thank the Committee for the opportunity to discuss the final OSHA logging regulations impact on small business. I have been a logger for over 30 years and have owned my business for 25 years. I have approximately 30 employees on my payroll. I am a logging contractor that has fallers, skidders, high line operations and I do all my own road building.

I have had the opportunity to hear OSHA representatives speak about the new safety standard for logging and have concluded that as a small business owner, my bottom line will be greatly impacted by the new mandated regulation. There are some factors of the new regulation that I would like to bring to the attention of the Com-

mittee with regard to how it will impact me as a small business owner.

OSHA informed us that we will be required to retrofit our equipment to meet the new ROPS and FOPS part of the standard. While the standard indicates that this portion is only applicable to equipment placed in service after February 1995, the same standard says that all equipment will have the ROPS or FOPS replaced if they were removed. This in simple bureaucratic language is retrofitting. The retrofitting of machines that were not designed for ROPS or FOPS is purely cost prohibitive and will cause undue hardship on logging contractors such as myself. We can't comply unless we buy new equipment.

What OSHA does not understand and cannot and I think the Committee needs to understand is that we loggers, if we retrofit as required or modify our equipment to meet the new regulation, our equipment will be devalued or made worthless, which will jeopardize our ability to borrow working capital and bonding against our principal asset—our equipment.

We do agree that operators must be protected from objects entering into the cab while logging machines are being operated. However, any rule that would require loggers to enclose areas of machines that operators need to be able to see out of in order to safely operate the machine is poor logging practice. This rule is very ambiguous and its clarity when listening to OSHA field representatives became as clear as mud. What is a small business owner to do?

It is interesting to note that in the introduction to the new standard, OSHA believes that the new standard will reduce injury and/or deaths. While logging is a unique industry that has risks associated with it, OSHA needs to get out into the field and actually do the work to get an understanding of the nature of our work. A mere belief is not enough to impose upon all logging small business such a burden of what I feel to comply with will cost my operation initially over \$100,000 if we comply. We as an industry are always looking for new technology, efficiency and safe practices. We through our efforts have seen reduction to the injuries in our industry, not through mandated regulations based on belief.

The new standard as well as being cost prohibitive also fails to talk our industry's language. When I reviewed the new standard with my experienced crew, we were baffled that the standard did not properly identify what should have been prudent and proper practices, let alone proper definitions of the work being performed, the definition of a choker as one example.

The regulations leave ambiguity for the interpreter. OSHA as they have stated in explanation of the new standard has one interpretation; a professional in our industry has another. Which one is to be followed? My fellow loggers and I feel we have a better understanding of what is expected rather than a bureaucrat. We cannot expose ourselves as small business operators to mere whim, fancy and ignorance of an OSHA inspector.

Again, I want to thank the Committee and you, Senator Burns, for this opportunity. We as an industry when we are faced with such a wholesale change to our operating practices, our ability to finance and our ability to work efficiently cannot let this be im-

posed on us small business operators, when other small businesses in the industrial community do not have to follow such strict and stringent safety regulations. We believe in safety and we adhere to safety, but let the industry decide the wording and how it should be applied.

Senator, in closing, between the grizzly bear, bureaucrats and wolf reintroduction and OSHA regulations, we just cannot survive. If they really wanted to help, they would address, one, job stabilization, the biggest factor why people in our industry get hurt. People's minds are not concentrating on their job, but worrying about family problems usually related to money and job stability. Two, help coordinate the helicopter and life flight programs in remote areas. Senator, we would like some type of assurance that the people testifying today will not be targeted for unwarranted OSHA inspections. A lot of people would have liked to testify but were afraid to.

Thank you, Senator. As the last on the panel I would like to applaud you for help with OSHA.

Senator BURNS. Thank you. Mr. Westfall, while I have got you right here, and I would just like to say I have not spent the time in the woods that you have. ROPS and FOPS or whatever. Enlighten me. I am not familiar with those terms.

Mr. WESTFALL. ROPS is rollover protection and the FOPS is just a falling object protective structure, and this is designed as stated by the Society of Automotive Engineers.

Senator BURNS. OK. Now, did you want—have you got the part on there about the choker?

Mr. WESTFALL. Yes.

Senator BURNS. No. I am interested in this and I think our friends from OSHA should understand this, and I applaud them for sticking around, and maybe this is the way we solve these problems.

Mr. WESTFALL. The definition of a choker, most everyone of us in this room know what it is and we have used it daily, but if you did not know what it was—I read this to my crew without telling them what it was and I asked them, What do you think this is? And they did not know. It is a sling used to encircle the end of a log for yarding. One end is passed around the load, which does not pertain to what a choker is. It does not go around the load; it goes around the log, and then through a loop eye, end fitting or other device at the other end of the sling. The end that passed through the end fitting or the other device is then hooked to the lifting or pulling machine. If you do not know what a choker is, that is mind boggling to me.

Senator BURNS. Sounds like one of these; does it not? OK. That is fine. I appreciate that.

Worth, I am very interested in and I think there will be a lot of people who will look at this testimony—I want you to just start everybody as if we are all in the first grade; OK? The humboldt cut. Explain to me a humboldt cut.

Mr. NIXON. A humboldt cut or a humboldt stump is a stump with a notch, the notch is left on the stump. Do you understand what I mean?

Senator BURNS. OK. In other words, the notch is not on the log.

Mr. NIXON. No, it is not.

Senator BURNS. All right. Now, just briefly walk me through why a humboldt—why it is called a humboldt. Charlie Humboldt was the first to do it?

Mr. NIXON. Yes, probably. Humboldt stumps have been around a long time. You can see them even back in the old cross-cut days guys did that where they left—they cut up underneath like this on their—to make their notch. The reason I feel it is a better stump is because it is easier to steer a tree, and today when we have to select a log, sometimes a tree will roll out easier. You still have your break. With an open face you still have your break to keep the tree from popping off the stump and coming back.

Senator BURNS. Kickback.

Mr. NIXON. Kickback, yes. But if your escape route is properly made, that is not much of a problem anyway. You know, usually the guy that gets wiped out by a kickback is standing right by the stump, and that is the first mistake right there. You have to have an escape route cut out, put your humboldt in and the humboldt works as a break. You also have holding all the way across the stump to—you know, you have a bit of holding all the way across.

Senator BURNS. Now tell me. Are all of these explained in OSHA regulations? Is the type of cut—

Mr. NIXON. Well, the way I understood it, they do not want you to—you cannot be below the notch, which is improper. You know, but here in Montana we cut flush—we cut flush to the notch. In other words, there is no step above the notch. Do you understand what I am saying?

Senator BURNS. Yes.

Mr. NIXON. And like in the coast of Alaska or over on the coast the big problem is acceptance, and I do not know why. Over there you can have a 4-inch—you can go 4 inches up over the—

Senator BURNS. Up over the notch.

Mr. NIXON. Up over the notch, and that is acceptable in their mills. Here it is not, but it is still safe—I feel it is as safe—as long as you are flush to or above the notch it is a safe stump. It should not be questioned. In fact, a lot of places on the coast, if you make any other kind of a stump you are fired. I mean, it is basically—they tell you right there a humboldt stump is the only acceptable stump on this operation. They do not even figure you are a professional unless you can do it.

Senator BURNS. Mr. Funke, you mentioned that some of the safety regulations, and if we carried these safety regulations clear through to fruition and with the lid of the law they sort of collide with environmental situations. Can you give me a for instance on that? Did I catch you cold on that?

Mr. FUNKE. No. We had a sale earlier this year, and a lot of the area was real thick, and there were only like three to five thousand feet to the acre that was supposed to be harvested. The rest of it was supposed to be untouched except for your corridors on our line skidding. It was really difficult not to hang a tree up. Fact is, this will blow some people's minds maybe, but the loggers that I know, it is not going to surprise them, it would not be out of line to have 20 trees hung up in a day's time, or 25. They had to be knocked down by other trees.

You put that humboldt cut in it like he says and I am talking about professional type sawyers. These guys know what they are doing. There was one guy that did not and he would not learn, and so he did not work there very long. But what you have to do sometimes, he mentioned that they roll out easier with a humboldt. They do. These trees have to be cut off. They have to be cut off and then they will roll out. The limbs, the limbs get hooked in and they will not roll, see. So a lot of times the sawyer knows how to do it. I mean, the professional sawyer. I have never heard of a sawyer getting hurt doing this. I mean, there probably is because of different situations, but—maybe, but none of my guys even—you know, they—we talk safety. We talk some safety on my crew everyday, and—but then you use the tree for the driver to get that tree out of there. You have to use another one.

But the timber is so thick on that particular sale that the guys would have to set their saw down, walk through the woods trying to find a hole for that first tree to go in, and then they start their day.

Senator BURNS. I see. OK. And Mr. Larson, I was interested in your comment, and I think it kind of goes along with Mr. Funke's, that some of these trees that get hung up just cannot be retrieved mechanically.

Mr. LARSON. It is not possible, especially on a helicopter show, but on any show. If you have got—mechanical means chain saw is not included. You cannot cut them out. Like he is talking about this kind of ties in. You got a hung up tree, you are supposed to have so much hinge wood to hold that—

Senator BURNS. So much what now?

Mr. LARSON. Hinge wood to cross the stumps to prevent—or holding wood. You have to prevent it from kicking back. How do you mechanically remove it if it is not cat ground, it is not line ground, it is helicopter ground. Helicopter is clear across the State; how am I going to get this tree down? With a come-along? And then if I cannot go within 200—can you imagine the rig I got to do with a come-along to get a tree on the ground?

Senator BURNS. I know what a come-along is.

Mr. LARSON. And then, sir, you got to pull it over on top of you probably. What are you going to do? They got you between the devil and the deep blue sea.

Senator BURNS. I just want that to be a part of the record because when we finally get some technical adjustments in this we want them to work. We want them to work, and that is my main concern, and we are not out here just jabbing people around just for the business of jabbing people around.

So with that I do not have any more questions. I want to thank you very much for coming, unless anybody else has anything to add that they had forgotten that they want to make a part of the record.

Do not forget to leave your written record with Dwight.

Yes, sir, Mr. Taylor.

Mr. TAYLOR. In regards to this comment just here now, it is impossible with the way they have it written up to do anything with that because you cannot go anywhere near it. How are you going to wench it down? How are you going to saw it down? How are you

going to do anything with it when they say do not go near it two tree lengths? It is impossible.

Senator BURNS. OK. Go ahead.

Mr. LARSON. Each danger tree, including lodged trees and snags, shall be felled or removed using mechanical means or other techniques that minimize employee exposure before work is commenced in the area of the danger tree. A danger tree should not be felled or removed within two tree lengths of the danger tree unless the employee demonstrates that a shorter distance will not create a hazard to the employee.

But how can you go through a stand of timber with a cat and take out all the snags? What does mechanical removal consist of? Remember, we cannot use a chain saw. So you got to have a whole crew out there in front of your logging crew just removing snags, and then the Forest Service turns around or whoever you might be working for and says, I don't want all them snags cut because I want wildlife trees. Which way do you go?

Senator BURNS. Find the nearest bar. Yes, sir. We will wrap it up and go into—

Mr. FUNKE. OK. I guess maybe I didn't answer your question on the environmental thing very well. OK. What will happen is if you are not allowed to get that tree down by, say, the sawyer—this has happened which is the reason I am bringing this up. There was a big tamarack that was three long logs and a short one probably, and I was laying out corridors, and I went over the ridge to see how the sawyer was doing, and I got there just in time to see him start on the back cut. This big tamarack did not have any painting on it; this little white fir growing right next to it did. So there is no sense trying to stop you then, and he put it on the ground and I said Larry, I said, why did you cut this tree? I said, This is a \$1,000 stump. That is what the Forest Service can charge me for this. And I said, Why did you put it on the ground? And he said, Well, it is not safe. He said, This white fir growing next to it would not fall down. And I said, Yeah, I said, Larry, this is kind of putting me on the spot because, I said, there is a way of putting this white fir down and you know darn well you know how to do it. You know better how to do it than I do. You are a professional sawyer. I watch you saw and you do a good job. And he said, Yeah, I know. He says, It will not happen again. And I said, The tamarack up on the ridge on the oasis has paint on it and go and make sure you do not take it, and put an X on this stump.

The environmentalists are hard on the Forest Service. Environmentalists, they appeal the sale and so the loggers do not get the sale. We do not have very much timber to look forward to, you know. So with these OSHA rules we cannot log sales like this. And if we do go in there and try to log this thing, the job is going to look like heck when we are done and we are going to have way too many trees on the ground.

I got a letter from the ranger when we got done with that sale patting us on the back for a good job that we did and she said in this letter that people are going to be looking at this sale, environmentalists and timber industry, because a lot of people did not think it could be logged that way. There was only one bidder on the sale and that was the mill I worked for. And so with these

rules that OSHA has there is no way in heck the logger is going to be able to work. It just is not going to happen.

Senator BURNS. OK. Thank you very much panel. We appreciate that. Do not forget to leave your comments and anything else that you wanted to leave to be made part of the record, and those of you who have filled out cards and want to make comments, we are going to take comments for the next—how much time do we have here? We have about 30 minutes or so, I think, do we not, Linda, or something like that? Pretty close. And we are going to hold those comments to a couple of minutes because we want to hear from you folks who have driven in to listen to these proceedings. And if there is something that has been missed that you think is important, we would—we would want your comments.

[COMMENTS FROM THE AUDIENCE FOLLOW:]

So Burt Landsen. Is that right?

Mr. MACKAY. Some of them may have left.

Senator BURNS. Or Roger I mean. I am sorry. Here he comes around the corner. Just step up to the mike, if you would like. And where are you from in Oregon?

Mr. LANDSEN. Portland. Tigard.

Senator BURNS. I know where that is. OK. Thanks for coming, Roger. We appreciate that very much and we look forward to your comments.

Mr. LANDSEN. I timed myself and it took me about 4 minutes and I am going to try to read it a little faster.

[The prepared statement from which Mr. Landsen read follows:]

Offset insert folios 34 thru 40 here.



**COLUMBIA HELICOPTERS, INC.**

March 23, 1995

The Honorable Conrad Burns  
183 Dirksen  
Senate Building  
Washington, DC 20510

Dear Senator Burns:

Columbia Helicopters, Inc. (herein "CHI"), P.O. Box 3500, Portland, Oregon 97208, requests that the following testimony be documented and entered into the official record of the US Senate Committee on Small Business Field Hearing on the Final Ruling, 29 CFR Parts 1910 and 1928 Logging Operations.

We thank you for this opportunity to file this petition for review of the Final Rule and its impact on the logging industry. Although only a total of 12 stays were granted by Federal OSHA, there are many areas of the Standard that remain a regulatory extreme imposing unnecessary burdens on employers. CHI believes that some of these rules will pose a greater hazard to workers if enforced, while several are impossible to comply with at this time.

Logging methods, timber types, variations of terrain and soils, equipment and weather conditions all vary from forest to forest, State to State. State OSHA's have their own logging codes, including Federal regulated States such as Montana and Idaho, that regulate their own unique safety situations. It is unknown why Federal OSHA would try to regulate logging from the East Coast to the West Coast with the same rules and regulations.

For years various State logging associations have worked vigorously promoting safety and safe work places and continue to develop codes that are not unduly burdensome, more realistic and less confusing than the Final Ruling.

Several regulations that raise concerns as far as interpretation and how it relates to our helilogging operations are listed below.

1. 1910.266(c) Definitions application to this section.

"Machine. A piece of stationary or mobile equipment having a self-contained powerplant, that is operated off-road and used for the movement of material. Machines include but are not limited to tractors, skidders, front-end loaders, scrapers,

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graders, bulldozers, swing yarders, log stackers and mechanical felling devices, such as tree shears and feller-bunchers."

Helicopters are a major part of our logging operation. According to the above definition, a helicopter could easily be defined as a stationary or mobile piece of equipment that has self-contained powerplant, that is operated off-road and used for the movement of material. Therefore the definition could be interpreted to include a helicopter as a "machine." Is it OSHA's intent to include a logging helicopter in the definition of a machine as it presently includes tractors, skidders, etc.? If that is the case, it brings up some inconsistencies with Oregon, Washington and Alaska logging codes. If it is determined that a "helicopter" is interpreted as a "machine," then the following issue also becomes of concern to us:

A. Under 1910.266 (d) (iii) Flammable and combustible liquids, it states:

"Each machine, vehicle and portable powered tool shall be shut off during fueling."

Under Oregon Administrative Rules 437, Division 6, Forest Activities, 437-06-427(3), "Helicopters using Jet A (turbine kerosene) type fuel may be refueled with engines running provided the following criteria are met:

- (a) No unauthorized employees shall be allowed within fifty (50) feet of the refueling operation or fueling equipment; and
- (b) Fire extinguishers shall be strategically located in the fueling area and shall have a combined rating of at least 16A:160BC."

In addition, Washington Safety Standards-Logging Operations, Chapter 296-54-559(36), and Alaska Occupational Safety and Health Standards/Logging, Chapter 07.175(g)(3), both allow helicopters using Jet A (turbine kerosene) type fuel to be refueled while engines are running, with similar criteria as indicated in (a) and (b) above.

Furthermore, Columbia Helicopters, Inc.'s Air Carrier Operations Manual, approved by Dale Morris, NM-FSDO-09, FAA inspector on 5/19/93, also allows for refueling with Jet A fuel while engines are running.

Based on Oregon's and Washington's criteria on refueling, it is presumable that the intent of 1910.266(c) would not include a

helicopter, however, a clarification of Item I is greatly needed to eliminate any doubt.

To illustrate the lack of simplified interpretations and lack of understanding in this regulation, the following rule could easily be implied that prior to the end of a shift before shutting off the helicopter, we would need to fly it upside down, set the brakes and put the blades to the ground.

1910.266(f)(2) Machine Operation (x) Before any machine is shut down, the machine brake locks or parking brakes shall be applied. Each moving element, such as but not limited to, such as blades, buckets and shears, shall be grounded.

We know this is not the intent of the regulation, but it is just one of many examples of the interpretation problems with the Final Ruling.

2. 1910.266(d) General requirements. (1) Personal protective equipment, Sections (iii), (iv), (vi) and (vii).

CHI feels that it is the employers responsibilities to make sure that the employee has proper safety equipment and that it is worn. However, employers should not be required to furnish this equipment at no cost to the employee anymore than being required to provide the other tools of the professional logger. PPE has traditionally been part of a logger's personal gear. Used gloves and hard hats would be of little value and likely have to be discarded because of the cost of washing and replacing the suspension system to meet a reasonable health requirement. The transient nature of much of our work force, along with crew member transfers, makes this impractical, hard to track equipment and costly. Employees should be compensated for their equipment through a wage structure.

3. 1910.266(d) General Requirements (2)(ii) First Aid Kits - Item 16 in Appendix A.

CHI is in disagreement with this item. We have been involved with teaching first aid/CPR through the American Red Cross and EMP America, Medic First Aid since 1977. In 1989, techniques for applying tourniquets were discontinued by ARC under the recommendation of the American Academy of Orthopedic Surgeons. Prior to 1989, tourniquets were taught to be used only as a last resort, to sacrifice a limb for a life. They are rarely applied correctly, which causes a greater risk of tissue damage and internal injuries than there was benefit to the patient. It is discomforting to learn that OSHA would have industry place a tourniquet in a first aid kit when they are considered more dangerous than beneficial along with the fact that people are not trained for tourniquet use anymore. A tourniquet in a first aid kit would only encourage its use.

4. 1910.266(d) General Requirements (2) First Aid Kits (ii) - Item 12 in Appendix A.

Resuscitation bags and airways are not taught in first aid classes and would exceed the card authority causing liability problems for the employer and first aid responder.

5. 1910.266(d) General Requirements (2) First Aid Kits (iii).

If OSHA is telling industry what the contents of a first aid kit must contain then why should they be reviewed and approved at least annually by a health care provider?

6. 1910.266(d) General Requirements (3) Seat Belts, Sections (i), (ii), (iii).

State laws already require seat belts to be provided and worn by the driver and any passengers in a motor vehicle. Making the employer responsible for the personal vehicles used by employees simply as a means of transportation to and from work is unrealistic. CHI has no more right to control an employee's personal vehicle than does OSHA or any other employer. Seat belts, drivers licenses, etc., should be left to appropriate city, county and state law enforcement agencies.

7. 1910.266(d) General Requirements (9) Flammable and Combustible liquids, Section (i).

Requiring flammable and combustible liquids to be transported in accordance with the requirements of subpart H of Part 1910 will have fiscal impact not noted by OSHA in the October 12, 1994 Federal Register. OSHA approved gas cans range from \$40.00 per one gallon can up to \$175.00 for five gallon containers. The containers currently being used by loggers do not appear to be contributing to logging accidents. According to OSHA, burns, or chemical reactions do not pose a significant risk to loggers. This requirement should be deleted because the high cost of compliance is not supported by any data associating combustible liquids at a logging operation to any logging injuries, and because the record does not indicate a significant risk to loggers.

Section (ii). OSHA has not produced in the record any evidence that this rule is needed. Burns from fire, or combustible liquids used to start those fires do not represent a significant risk in the logging industry. The rule itself betrays OSHA's knowledge of reality of starting a fire in the Pacific Northwest during much of the year. This rule amounts to a regulatory extreme and should be eliminated completely.

8. 1910.266(e)(2) Chain saws, Section (iv).

CHI does not oppose any rule that may prevent a worker from getting burned by fire. It appears OSHA is overestimating the risk from this threat. There are two problems that exist with a rule that requires employees to be 20' from an open flame or ignition source when they refuel a chain saw. First is the lack of evidence of a substantial risk in the record. Secondly, 20' from a warming fire in the dead of winter may place a landing chaser attempting to comply with such a rule in danger, or violation of several other rules. This rule should be eliminated as a regulatory extreme.

Section (v). That a chain saw shall be started at least 10' from the refueling area is a regulatory extreme and should be eliminated.

Section (vi). OSHA does not elaborate on page 51712 of the October 12, 1994, Federal Register what "otherwise firmly supported" is. The American Pulpwood Association in a recent publication "interprets (6) and (7) to permit starting a chain saw with the rear handle firmly gripped between the legs, the front hand firmly gripped with the arm straight and locked at the elbow, and the chain brake engaged". CHI does not feel this is an acceptable method of starting a chain saw.

CHI feels that chain saw operators should be permitted to hold the saw firmly in one hand from an upright stance. With the saw firmly held, with the chain brake engaged, the bar can be rested securely on a log or other stationary item while the starting rope is pulled. This is not "drop starting" a saw, which CHI agrees is an unsafe work practice. This method helps lessen the strain on the back and other muscles by allowing the chain saw user to stand erect while starting the saw. Some woods workers may start a chain saw dozens of times during a day. They should be encouraged to start the chain saw in a way that does not require them to bend completely over, or jerk their muscles as when drop starting a saw. Table 6 on page 51676 of the October 12, 1994 Federal Register indicates a significant number of logging injuries are the result of muscle strains. Although the record shows far too many workers being cut by chain saws, the record does not specify if the workers were attempting to start a chain saw when the accident occurred. CHI believes that loggers in the Northwest generally start chain saws in the manner described above. CHI reports no known mishaps or injuries while workers were attempting to start a chain saw in this manner. The rule should be amended to clarify what "otherwise firmly supported" means, taking the above comments into account.

9. 1910.266 (f) Machines. (6) Exhaust Systems, Section (iii).  
The need for spark arresters is clearly defined in every state fire code. This item should be left to the state fire marshall and

other agencies that govern fire equipment. Due to the fact that this is not an employee safety issue, it should be deleted from the rule as it is over regulation.

10. 1910.266 (g) Vehicles (1).

Employers have no control over vehicles they do not own or operate. Vehicles owned or operated by employees, and which are used to transport the employee to the job are not the responsibility of the employer. Logging employees and their personal property should not be reviewed any differently than an employee working for any other employer, including OSHA. This rule needs to be amended so employers are responsible only for those vehicles they own and/or operate.

11. 1910.266 (g) Vehicles (2). The reasons CHI objects to requirements that force employers to conduct inspections of vehicles, machines, tools, PPE, etc., have already been noted in this letter. This rule should be eliminated in favor of rules that require vehicles, machines, tools, PPE, etc., to be maintained in serviceable condition, or be taken out of service.

Also, already noted are the objections of CHI to making employers responsible for the personal vehicles of their employees which are not owned or operated by the employer. This rule should be eliminated.

12. 1910.266 (g) Vehicles (3). Maintenance material should be left where it can be maintained, not thrown wherever it will be destroyed. This rule was stated earlier and we feel that it is still over regulation with no gain in safety.

13. 1910.266 (g) Vehicles (7). This has been stated several times and we again voice our objection to requiring an employer to violate an employee's right to privacy in regards to his private vehicle.

14. 1910.266(h) Tree harvesting. Section (1)(vi) and (ix).

CHI wants hanger trees on the ground as soon as possible. Knocking the hanger tree down is not the hazard; leaving it stand is. A sawyer who is working on helicopter logging ground has no other practical means of getting it on the ground. A safer method may be for the well trained sawyer to size up the situation and decide to fall another tree into the hung up tree, forcing it to the ground. This is called driving a tree and is different from Domino Falling. Driving is done only when a tree unintentionally becomes hung up. OSHA is confusing this with Domino Falling. Domino Falling is the practice of deliberately leaving cut up trees standing in order to push them all over at one time by falling one tree into a group of

cut up trees. CHI feels that Domino Falling is an unsafe practice and should be avoided.

In conclusion, CHI has a strong desire to create a safe and healthy place of employment. Sensible solutions can be reached without compromising the safety of our employees. Common sense and experience are the tools of our trade and they should be given a certain amount of consideration and respect.

Respectfully,

COLUMBIA HELICOPTERS, INC.

  
Roger Lansden  
Safety Coordinator

rdl/jas

Senator BURNS. You betcha. Thank you. We appreciate your attendance here today.

Robert Cuddy from Plains, Montana. The State already has regulations and you are wondering why duplicate.

Mr. CUDDY. I am curious as to why we already have a State regulation for safety. We do not need a Federal bureaucracy to tell us that when people are dying we have problems. We are actively pursuing safety and I think from all the testimony I have heard that. So I just respectfully wish that you would consider that.

Senator BURNS. Thank you very much.

Bill Copenhaver Logging at Seeley Lake.

Mr. COOPENHAVER. Yes, I just have to reiterate the same thing he just said. State safety standards are probably plumb adequate in most areas, and usually whenever there is a bad accident it is either unavoidable or somebody is not following the laws anyhow so there is not any sense in having any more laws in regards to it.

Senator BURNS. All right. Thank you very much.

Gene McFarland, Clinton, Montana. Hello, Gene. How are you?

Mr. MFARLAND. Real good, thank you. I will get over next to this microphone. I couldn't hardly hear everybody that was speaking, but hopefully you can hear me. I just want to say amen to what has been said. I appreciate your being here and hearing our concerns. They are real and we all face the OSHA problem. I think I cannot remember a time I have worked in the woods over 30 years when we did not talk about safety or being careful. We talked about each portion of what needed to be done during that day or in the days ahead and everyone is concerned about everyone else's safety. My hope would be that OSHA could just be—cut the funding for OSHA is what I would like to say.

I would not be afraid to go to work for any logger in this room. I believe that their interest would be—my interest would be in their best interests—I mean, I am sure they would want to take care of my safety, and that is all I have to say. Thank you.

Senator BURNS. OK. Thanks, Gene. Bob Anderson.

How are you, Robert?

Mr. ANDERSON. Fine. I would like to thank you for showing interest in this cause and everything, and I would like to go along with what everyone else has been talking about today, and I appreciate everybody's concern over this.

And one thing I would like to say is I have never been inspected by an OSHA representative myself, but I have heard of them coming and how they have treated the people that they have inspected and everything, and I honestly think that it is just a big bureaucracy type thing that they have come up with. And they come out onto the site, and they have done a lot of things that—just like they are God or something, and I do not think we need that sort of thing. Thank you.

Senator BURNS. All right. Thank you very much. I will tell you that a good friend of mine who is State Director for the IRS—everybody understands the IRS this time of year. We had a little benefit for some charities over in Helena. And I will give these away; I paid for them—but he offered two audits for sale, and maybe we could get OSHA maybe to get a couple of audits without charging anything. Maybe we could learn something.

Ray Bennett. Ray, where are you? There you are.

Mr. BENNETT. Thank you, Senator, for showing up here and showing your concern. I am just about going to duplicate what everybody else has said. I guess one thing that irked me a little bit about this last OSHA meeting we had down there in Missoula was Gestapo type situations that they were imposing. These two clowns got up there in front of us and said, "You type people only understand one thing, that is your pocketbook. And here is a set of rules and laws; whether they are right or whether they are wrong, I am going to enforce them and you are going to pay." I do not like that—I do not like that one bit.

I talked to another OSHA fellow down there and I said, Well, what if they just—you are tried, convicted, sentenced right on the spot. I personally have not been inspected but I know others that have. They have a portable computer, write you out the ticket and hand you it; you pay. Well, what if I do not want to pay this thing? I am talking to this inspector. But he said, You will pay. He said, I will take it in front of a Federal judge and if you are found guilty, you will pay. And I said, Maybe I will tell the Federal judge I am not going to pay it. And he said, Well, have you heard of the IRS? And I said, you know, I am familiar with them. Everybody here in the room has been at times. He said, They are going to do our collecting for us.

Now, I know these two gentlemen sitting here today have smoothed things over here but those are not the same vibes I got out of this meeting down here in Missoula a while back. These guys are off the bus and far from our ass.

Senator BURNS. All right.

Mr. BENNETT. I thank you, sir.

Senator BURNS. You betcha, and thank you. I appreciate your input.

Mr. BENNETT. Excuse me, Senator. One more thing.

Senator BURNS. Yes, sir.

Mr. BENNETT. I do not think we ought to modify any of these rules. I think we ought to throw them right out the door.

Senator BURNS. Moving right along here. J.R. Crismore. Where are you? I drew your card.

Mr. CRISMORE. Thank you, Senator, for showing up today. The last gentleman's comments, I was here at Kalispell for OSHA's presentation of our new rules, and Mr. Howell told us at that time if we were in compliance he was not going to stick around because he wanted to get the rig running to the next guy, and he knew he was not right and he was going to write him tickets. I feel that is unjust.

I listened to them tell us they own chain saws and they run them. They obviously do not understand them. I wonder if this is a safety issue or if maybe the environmentalists have asked OSHA to try to shut us down because they have not been successful.

And also on Worth's deal there with humboldt stump. Virgil told us that if he saw a humboldt stump that was flush cut he was going to write tickets. And I ask you, why is it the responsibility of the employer and when does an employee become of age? Thank you.

Senator BURNS. Thank you. Julie Espinosa. Boy, we finally got some beauty on this. It took long enough. I had to go through these cards.

Ms. ESPINOSA. Thank you. I am a little short for this microphone I think.

Senator BURNS. That is all right.

Ms. ESPINOSA. My name is Julie Espinosa. My husband works in the woods. He runs a skidder. He works for my dad, Gene McFarland, McFarland Logging.

First, I would like to address the loggers here. Thank you for coming because it shows that you are concerned. If you ever wonder why special interests like the spotted owl or OSHA, government agencies, have so much control over the way we run our jobs, I think the main reason is because they are united. They all speak with one voice and they all gather together people that have the same ideas that they do and they all speak together. I am suggesting that it is time that we unite and that we all speak with one voice. Because individually we will not be heard, but if we unite and all speak together then we will be heard.

Second, I would like to speak with OSHA. I would like to thank them for coming to hear the concerns of the people whose lives are affected by the regulations that they write. When I heard about the meeting where the new regulations were brought up I asked if anyone had asked the question whether they were trying to put us out of business. I do not think that was their intent when they wrote the regulations, but that is what these regulations have the ability to do. OSHA is concerned with the safety of our operations. So are we. OSHA is concerned that we follow safety guidelines. So are we. The point on which we disagree is who is better able to make these guidelines.

I am running out of time I can see.

Senator BURNS. Do not worry about it. I still have the hammer up here.

Ms. ESPINOSA. I would like to tell OSHA, please believe me when I tell you that we are best able to regulate ourselves. We are, the company, the operator, the employee, the employer, the people on the job. We are the best able to establish the safety guidelines of our job. Every company is unique; every tract of ground is different; every situation calls for responsible, knowledgeable actions from the people on the job. It seems that OSHA assumes that we do not want to be safe, and that is absolutely not true. We are the ones with the most to lose if we are not safe. We are the ones who will succeed when we are safe.

We have heard of examples where OSHA regulations will make a job more hazardous rather than less hazardous, and I do not think that that was their intention when they wrote the regulations. I think that is what happens when the people who are writing the regulations are not the ones doing the job. Let us regulate ourselves. We can regulate ourselves better than OSHA can because we are the people doing the job, because we are the ones with experience in logging and because we are the ones with the most at stake.

Senator Burns, I would ask you to introduce or support any legislation that would return the control of the safety back to the individual companies where it belongs.

Senator BURNS. I will ask you a question real quick. Do you think just—I will ask you do you think we could do better with State standards and regulated at a State level rather than Federal?

Ms. ESPINOSA. Absolutely. Absolutely. I hope that we will all push for this. I hope that we can get—take over control again in the States for the safety of our companies. And even not so much the States, but the individual companies. If that is not possible, if that does not happen, and I pray that it does, once—one thing that OSHA could change that would make a lot of difference is that they would not issue fines on the first visit to the job; that they could come to the job and tell them where they could be more safe. And on the second visit, if those things were not complied with, then they could issue the fines. But that is a secondary to me. First I would rather see return of safety back to the people whose lives are at stake.

Again, I am sorry I am taking so much time. I just want to say to you people here we have to get involved. And I know I am talking to the wrong people because you are the ones that are here. But we have to talk to everyone else and we have to get everyone else here too so that we will be heard. Thank you.

Senator BURNS. Thank you, Julie. Thank you very much.

I would like to hear from Randy Ingraham. Randy is a training consultant, Associated Oregon Loggers, and we appreciate you coming over, Randy. We really do.

Mr. INGRAHAM. Thank you, Senator. Senator, it is an opportunity for the association to speak to you and we thank you for that. We also have some written testimony to leave you.

Senator BURNS. That will be in the record without objection.

Mr. INGRAHAM. OK. The written testimony that I leave you with is the same letter that we wrote and sent to Federal OSHA in January. In February I called Federal OSHA and asked them if they had read it, and someone there said they had glanced at it and told me frankly our concerns had no merit. I think they do have merit. They have been echoed by the loggers here today and we are very happy to be able to submit that to you.

In Oregon being a State run OSHA plan we have a logging code. It is a logging code that was written with the help of industry, particularly the Associated Oregon Loggers working directly with the Oregon OSHA to write this code book. It is not a perfect code book, but it is much better than a Federal standard, which in Oregon we are very concerned will have to be incorporated into the code book that we now have effectively destroying all the work that we put into that code book. We will go from a code book that is workable to one that is just a regulatory extreme and a burden on our members, members that—these people that talked to you today could easily be transplanted in Oregon; they are the same type of people, small businessmen.

Right now the Federal standard is a poorly written standard complete with a confusing preamble. It now has field directives. Federal OSHA now has a focus on changing the culture, the customs at the Federal OSHA to concentrate on fatalities, correction

notices, issued amendments. So what we have now is a very confusing set of standards. I would suggest that this standard may not be tinkered with any more. The entire thing needs to be stayed. Not just the 12th; the entire code.

We are very encouraged though. Before coming to this meeting we had not heard anything from Federal OSHA about them wanting to get together with anybody from the States and we are very encouraged by Secretary Reich's invitation to the Montana loggers and we hope to receive the same invitation. I would suggest as a representative of the Associated Oregon Loggers that that is a much better way of writing a standard for thousands of employees and thousands of employers rather than taking written testimony or oral testimony six years ago and coming up with a code book that is unworkable.

Senator BURNS. OK.

Mr. INGRAHAM. I certainly thank you for your time.  
[The letter to which Mr. Ingraham refers follows:]



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January 9, 1995

Associate Solicitor for Occupational Safety and Health  
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The Associated Oregon Loggers {AOL} files this petition for review of the Final Rules; Logging Operations 1910.266, published in the October 12, 1994 Federal Register. As an association representing the majority of Logging Contractors in Oregon we work hard to promote logging safety in Oregon, but we oppose the final rule for several reasons. We feel the final rules miss the mark, and in Oregon would not substantially reduce a significant risk. Rather, they would only become an unnecessary regulatory burden to employers. In many cases we do not feel OSHA has shown by the record that a rule is needed.

In Oregon, the AOL and other logging industry representatives have worked over the years with Oregon-OSHA to develop the Forest Activities Code Book. This code book is not as unduly burdensome, is more realistic, and less confusing than the final rules published by OSHA. The AOL puts much time and effort into helping it's members develop and maintain effective logging safety programs. From our experience we feel loggers would benefit from a less burdensome approach to rule making. We offer the following observations:

[d] General requirements [1] Personal protective equipment.

{ii} In Oregon, Logging Contractors are not required to inspect Personal Protective Equipment before initial use during each work shift. They are however required to comply with OAR 437-06-045 {1} which states: "Personal Protective Equipment shall be

*"Representing the Logging Industry Since 1969"*

maintained in a safe and effective condition or removed from service or use". By continually monitoring the condition of Personal Protective Equipment, employers are able to provide for the Personal Protective Equipment needs of their employees. Requiring an "inspection before initial use during each work shift" by the employer would involve a checklist or some other type of written record keeping that would be an unnecessary burden and nuisance for employers in compliance with the Oregon-OSHA rules.

{iv} The AOL feels that all workers operating chain saws must protect themselves from chain saw cuts by wearing well maintained and properly fitting leg protection. In Oregon the frequency and severity of cuts from chain saws dropped dramatically once leg protection became mandatory. We feel the only exception to the rule requiring workers to wear leg protection while operating a chain saw would be when the worker was aloft in a tree, supported by climbing gear. Leg protection should not be worn by a climber if it in any way restricts the climbers ability to move freely. Leg protection would also be unnecessary for a well trained climber because the chain saw would never be used in a way that could possibly cause it to cut the climber in the area of the body leg protection is designed to cover. The new OSHA logging rules do grant an exception to the wearing of leg protection for any worker climbing a tree, but only as long as the employer "*demonstrates*" a greater hazard is posed by wearing leg protection. The AOL feels the need for climbers not to wear leg protection is obvious, that there are no records of climbers cutting their legs with their chain saws, and that employers should not be obligated to demonstrate a greater hazard is posed by wearing leg protection. The rule should be amended to eliminate the employer responsibility to make a demonstration.

{v} For many years loggers in the Pacific Northwest have worn rubber or leather caulk soled boots. These boots have provided the vital slip protection and ankle support needed in the logging industry. Cut resistant boots made of material other than rubber or leather would be a boot loggers in Oregon may consider wearing as long as the individual logger was certain an investment in this type of boot would not be a waste of money. Without first having tested these boots on a segment of NW loggers to see if they provided the durability and protection needed, while meeting their cut resistant claims, loggers would understandably be hesitant to buy them.

Under no circumstances could the AOL support any requirement that forced loggers in Oregon to wear steel toe boots. Steel toes get very cold and uncomfortable when

temperatures are low. More importantly, steel toe boots are heavier, clumsier, and more awkward than the logging boots currently being worn. It is our belief that steel toe boots would increase the number of accidents caused by slips and falls. The steep terrain and thick brush of Oregon would only contribute to a major cause of logging accidents, Slips, Trips, and Falls. On page 51676 of the October 12, 1994 Federal Register, tables 4, 6, and 8 help highlight the seriousness of slips, trips, and falls in the logging industry. We feel the rule requiring cut resistant boots should be eliminated in favor of a rule that required employees to wear well maintained foot protection that provides good ankle support and protection against slips.

{vii} This rule would require Eye and Face protection be worn by employees when there is a potential for injury due to falling or flying objects. The AOL Loss Control Staff has for years encouraged loggers to wear eye protection. During that time we have noticed more and more loggers choosing to wear eye protection, but very few wearing face protection. Loggers, especially Timber Fellers often grow accustomed and comfortable with eye protection. On the other hand loggers who try to wear face protection often complain that their vision is obstructed enough to make them feel uncomfortable while wearing face protection. They have complained about the darkening effect, distorted peripheral vision, and a problem with chips and sawdust sticking to the face protection making it difficult to see through during wet weather conditions. We feel employees exposed to potential eye injury should wear eye protection, and/or face protection, and will continue to encourage them to do so. However, we also feel that certain workers are adversely effected by face protection and should not be required to wear anything other than eye protection. The rule should be amended so employees can choose on their own not to wear face protection.

## [2] First-aid kits.

{ii} Logging Contractors in Oregon must provide First Aid Training for their Supervisors, Timber Fellers, and one out of five other employees. Over many years AOL members have received this training from certified First Aid Trainers. These trainers have consistently taught against the use of Tourniquets, except in the most severe cases. In those cases they teach that there is always a belt, cord, piece of rope, etc., available that could be used as a tourniquet. Placing a tourniquet in the first aid supplies would only encourage their use. The rule requiring a tourniquet to be in the first aid supplies

should be eliminated for the protection of employees against the effects of using a tourniquet when one is not called for.

{iii} A Health Care Provider examining the contents of first aid kits is not needed in order to ensure an adequate supply of first supplies is at a logging operation. The first aid requirements in the Oregon-OSHA Forest Activities Code Book have proved effective in ensuring employers know what to provide, and how those supplies are to be maintained. Mandating that a Health Care Provider examine first aid kits would only place an unnecessary burden on the employers. Records do not show the Oregon-OSHA rules to be inadequate in this area. This rule should be eliminated.

### [3] Seat belts.

{i} Oregon law already requires seat belts to be provided and worn by the driver and any passengers in a motor vehicle. AOL understands the potential savings in lives when individuals decide to buckle up. However, making the employer responsible for the personal vehicles used by employees to get to and from work is unrealistic. A Logging Contractor has no more right to control an employees personal vehicle than does OSHA or any other employer. This rule, and all other rules in 1910.266 that mandate employer responsibility for the personal vehicles of their employees need to be amended so the personal vehicles of others is not an employers responsibility.

{ii} In Oregon, operators of logging machines equipped with Roll Over Protective Devices {ROPS} are required to wear seat belts. When this is done safety is greatly improved. Advising skidding machine operators to wear their seat belts is an area the AOL Loss Control Staff directs a lot of attention. The new OSHA logging rules go beyond the Oregon-OSHA rules by requiring operators of machines equipped with Falling Object Protection Systems {FOPS} to also wear seat belts. The purpose of wearing a seat belt should be to protect the operator from injury as a result of a collision or tip over. Stationary logging machines such as yarders are not exposed to the same hazards as mobile logging machines. The AOL Loss Control Staff is not aware of any cases in Oregon where an employee injured in a stationary FOPS logging machine would have lessened or prevented their injuries had they been wearing a seat belt. Table 10 on page 51677 of the October 12, 1994 Federal Register mentions only "mobile equipment accidents". There is nothing in the records used by OSHA to support the

need for FOPS equipment operators to wear a seat belt. This rule needs to be amended so that operators of logging machines equipped with ROPS only, not FOPS be required to wear seat belts.

#### [5] Environmental conditions.

Loggers in Oregon comply with OAR 437-06-030 which states: "*If the operation cannot be made safe because of inclement weather conditions or darkness, work shall be discontinued until these conditions change to allow safe operation, except when doing fire fighting or under other approved emergency conditions*". The OSHA rule includes "fire" as a possible condition employees would not be able to work in. Initial fire suppression by trained loggers is vital to the future of the state of Oregon. Consideration needs to be given to how the Oregon-OSHA rule is stated, allowing for emergency conditions. Also, the OSHA rule states employees should move to a place of safety whenever an environmental condition may endanger them. This is a very broad statement. By properly training workers to recognize when conditions cannot be made safe due to environmental conditions, rather than when a remote possibility of danger exists is a key to providing a safe work place. The rule as written is too broad, and should be replaced with a rule similar to the one quoted above from the Oregon-OSHA Forest Activities Code Book.

#### [6] Work areas.

{iii} Most activities in the logging industry require at least two persons be present for reasons of safety. There are however several duties/jobs that are single employee assignments. In order for this rule to be reasonable there must be an exception to always working within visual or audible contact of another employee. The exception to the working alone rule in Oregon should be added to this rule. It reads: "*This does not apply to operators of motor vehicles, mechanized logging machines, watchers or certain other jobs which, by their nature, are single employee assignments*".

{iv} The AOL agrees that every employee needs to be accounted for at the end of the work shift in order to make certain no worker[s] are left without a ride home, or that an injured worker is left without receiving medical attention. However, OSHA's comment in the October 12, 1994 Federal Register is: "*to ensure that no employees are left in the woods*". Many employees drive themselves to work in their personal vehicles with the permission of the landowner {often written permission} in order to hunt, pick mushrooms, camp,

cut fire wood, or many other personal activities. These activities are carried on after their work mates have left the job site at the end of the work shift. Employers should be responsible to account for their employees at the end of the work shift, not make sure they go directly home. The rule should be changed accordingly.

**[9] Flammable and combustible liquids.**

{i} Requiring Flammable and Combustible Liquids to be transported in accord with sub part H of 1910 will have a fiscal impact not noted by OSHA in the October 12, 1994 Federal Register. One safety supply outlet in Salem, Oregon quoted the AOL prices ranging between \$40-\$89 for an OSHA approved one gallon container. There is a need in Oregon for many one gallon and larger containers. The containers currently being used by loggers to transport combustible liquids to and from the job site do not appear to be contributing to logging accidents. According to the information provided by OSHA in the preamble found in the October 12, 1994 Federal Register, burns, or chemical reactions do not pose a significant risk to loggers. This requirement should be deleted because the high cost of compliance is not supported by any data associating combustible liquids at logging operations to any logging injuries, and because the record does not indicate a significant risk to loggers.

{iv} OSHA has not produced in the record any evidence that this rule is needed. Burns from fire, or the combustible liquids used to start those fires do not represent a significant risk in the logging industry. This rule amounts to a regulatory extreme. The rule itself, and the comments in the October 12, 1994 Federal Register betray OSHA's limited knowledge of the reality of starting a fire in the Pacific Northwest during much of the year. It should also be noted that loggers in the Pacific Northwest are often called upon to help start prescribed burns as a forest management practice. When prescribed fires are started, loggers generally use combustible liquids as the fire starter. This rule needs to be eliminated completely.

**[e] Hand and portable powered tools. [1] General requirements.**

{ii} Requiring an employer to inspect before initial use during each work shift every hand or portable powered tool is a regulatory extreme, asking for the near impossible. In Oregon hand and/or powered tools are covered by a series of rules employers are able to understand and comply with, while obtaining the desired results. This rule needs to

be replaced, using rules such as found in the Oregon-OSHA Forest Activities Code Book that do not unnecessary burden employers with a regulatory extreme.

[2] Chain saws.

{iv} The AOL does not wish to oppose any rule that may prevent a worker from getting burned by fire. However, it appears that OSHA is overestimating the risk from this threat. The record does not support the concern shown in 1910.266. There are two problems with a rule that requires employees to be 20 feet from an open flame or ignition source when they fuel a chain saw. First, is the lack of evidence of a substantial risk in the record. Second, twenty feet from a warming fire in the dead of winter may place a landing chaser attempting to comply with such a rule in danger, or violation of several other rules. This rule should be eliminated as a regulatory extreme.

{v} This rule, as the previous rule, should also be eliminated as a regulatory extreme.

{vi} In the comments on page 51712 of the October 12, 1994 Federal Register, OSHA does not elaborate on what "*otherwise firmly supported*" is. The American Pulpwood Association in a recent publication "*interprets {6} and {7} to permit starting a chain saw with the rear handle firmly gripped between the legs, the front handle firmly gripped with the arm straight and locked at the elbow, and the chain brake engaged.*" The AOL does not feel this is an acceptable method of starting a chain saw.

The AOL feels chain saw operators should be permitted to hold the saw firmly in one hand from an upright stance. With the saw firmly held, with the chain brake engaged, the bar can be rested securely on a log or other stationary item while the starting rope is pulled. This is not "drop starting" a saw, which the AOL agrees is an unsafe work practice. This method helps lesson the strain on the back and other muscles by allowing the chain saw user to stand erect while starting the saw. Some woods workers may start a chain saw dozens of times during a day. They should be encouraged to start the chain saw in a way that does not require them to bend completely over, or jerk their muscles as when drop starting a saw. Table 6 on page 51676 of the October 12, 1994 Federal Register indicates a significant number of logging injuries are the result of muscle strains. Although the record shows far too many workers being cut by chain saws, the record does not specify if the workers were attempting to start a chain saw when the accident occurred. The AOL Loss Control Staff feels that loggers in Oregon generally start chain

saws in the manner described above. The AOL Loss Control Staff reports no known mishaps or injuries while workers were attempting to start a chain saw in this manner. The rule should be amended to clarify what "*otherwise firmly supported*" means, taking the above comments into account.

{xii} The AOL agrees with the rule because it encourages, and reminds workers handling chain saws to do so in a manner that will help them avoid the cutting chain, and at times an extremely hot muffler. However, on page 51713, column 3, paragraph 1 of the October 12, 1994 Federal Register, OSHA explains that anyone who carries a chain saw over their shoulder is required to wear a "*felt and/or leather pad*". Many Timber Fellers in Oregon do wear such a pad. Many choose not to. Few, if any Hook Tenders, Rigging Slingers, or Choker Setters who use a chain saw far less often, but who do carry them over their shoulders while traversing steep, uneven terrain choose to wear a pad. Nowhere in the tables, or preamble leading up to the final rule does OSHA identify a significant risk from carrying a chain saw over the shoulder. This rule should be eliminated, and the choice to wear such a pad be left up to each individual Timber Feller.

**[f] Machines. [1] General requirements.**

{ii} This rule is broad, vague, and too impractical to be complied with by any employer, including government agencies. Requiring employers in the logging industry to ensure that machines, including the personal vehicles of employees used for transportation to and from work unrealistic. Machines, including vehicles owned, or operated by an employer must be maintained in serviceable condition. The rule should be eliminated in favor of rules that require employers to maintain their equipment in serviceable condition, or be taken out of service until the machine is returned to serviceable condition.

{iii} Keeping written training materials and operator manuals on the job site has been attempted by some logging contractors in Oregon already. What they found was that the materials {no matter how hard the employer tried to protect them} eventually became soiled and ruined. They also learned that workers did not refer to these materials even when they were available. The workers had already been trained in the safe operation, use, and maintenance of tools and machines before they used or repaired them, as required by the Oregon-OSHA Forest Activities Code Book. With the exception of major repairs and maintenance the employees are trained to operate and

perform routine maintenance and repairs safely. When major repairs are needed the operators manuals, along with the necessary tools, parts, and etc. are brought to the job site from the company shop or office. Operators manuals have been found to be unnecessary on the job site at all times, but when they are needed it is vital that they be kept clean. A shop or office, not an active logging operation is where they are best kept. Ensuring worker safety in this area can best be accomplished by training workers how to operate and maintain logging machines before they are asked to operate or maintain them. Every logging training program should include instructions for employees not to attempt to operate or perform maintenance procedures they have not been trained in. The AOL feels that with proper training, as prescribed in the rules, this rule can and should be eliminated.

{vii} The AOL is uncertain of the intent of this rule. We do agree that machine operators must be protected from objects entering into the cab while logging machines are being operated. However, AOL would oppose any rule that would require loggers in Oregon to enclose areas of machines that operators need to be able to see out of in order to operate the machine safely. The AOL asks that this rule be clarified.

{viii} We are unclear as to what OSHA is requiring with this rule which states that the upper portion of the cab shall be "fully enclosed" with wire mesh screen. The rule directly preceding this rule states that cab shall be protected "except at entrances", and OSHA comments on page 51717 of the October 12, 1994 Federal Register that the enclosure should include the rear portion, and as far forward as possible. Although the rule says "fully enclosed" the preceding rule and OSHA comments do not appear to require full enclosure. We ask that this rule be clarified.

We would like to refer OSHA to Table 19 on page 51679 of the October 12, 1994 Federal Register. It notes objects entering into cabs {Jillpokes} accounted for only 1% of the logging injuries over a specific period of time. On the other hand, accidents during that same period of time that in some form involved logging machine or vehicle operation accounted for 28.6% of the accidents. Clearly, this shows the importance of operators having a clear unobstructed view of their surroundings. Any rule that exchanges an operators ability to see clearly in favor of protection from Jillpokes is a mistake.

{ix} This rule requires the "upper portion" of cabs to allow for maximum operator visibility. We feel the entire cab should be designed with maximum operator visibility in mind, as evidenced by the record. Modern logging machines are very large and fast, making it vitally important for the operator to be able to see the ground and any persons on the ground in the immediate vicinity of the machine. We feel OSHA should keep operator visibility in mind, and reconsider this, and the preceding two rules.

[6] Exhaust systems.

{iii} Oregon law requires all logging contractors in Oregon to observe strict Fire Season rules each year during the dry, hot season. This *"Fire Season"* is set and monitored by the Oregon Department of Forestry {ODF}. One of the requirements during fire season is that exhaust systems on logging machines be outfitted with spark arresters. A spark arrestor is not needed to protect against fire outside of fire season as evidenced by the fact that the ODF requires they be used only during their official fire season. Also, as shown by the record published in the October 12, 1994 Federal Register, burns, although a possible hazard that need to be protected against, do not represent a significant risk in the logging industry. Also, by using a spark arrestor outside of fire season when it is needed, the risk of burning out the arrestor for when it would serve a purpose during fire season is greatly increased. This rule needs to be eliminated.

[g] Vehicles.

{1} Employers have no control over vehicles they do not own or operate. Vehicles owned or operated by employees, and which are used to transport the employee to the job are not the responsibility of the employer. Logging employees and their personal property should not be viewed any differently than an employee working for any other employer, including OSHA. The AOL agrees that employer owned and/or operated vehicles must be maintained in serviceable condition if they are going to be safe to operate. However, this rule needs to be amended so employers are responsible only for those vehicles they own and/or operate.

[2] The reasons AOL objects to requirements that force employers to conduct inspections of vehicles, machines, tools, Personal Protective Equipment, and etc., have already been noted in this letter. This rule should be eliminated in favor of rules that require vehicles, machines, tools, Personal Protective Equipment, and etc., to be maintained in serviceable condition, or be taken out of service.

Also already noted are the AOL objections to making employers responsible for the personal vehicles of their employees which are not owned or operated by the employer. This rule should be eliminated.

[h] Tree harvesting. [1] General requirements.

{vi & ix} The AOL agrees that the practice of purposely Domino Felling timber is an unsafe work practice, and should not be practiced. However, we disagree with OSHA, and several of the comments on page 51723, column 1, the final paragraph in the October 12, 1994 Federal Register that lead up to OSHA stating: "*Therefore, OSHA is not permitting removal of any tree, including a danger tree, by domino felling.*" OSHA concluded that there are only two safe ways to proceed once a tree being felled gets hung up, creating a leaning, unstable tree. The first is to leave the hung up tree where it is, then marking the hazardous area and alerting everyone in the area of the danger. A hung up tree is one of, if not the most serious of all logging hazards, so for production and safety reasons this method is wisely seldom used. OSHA's other recommended method is to hook a hung up tree with a skidder and pull the tree down, or to use some other mechanical means to fall the tree. In its comments OSHA states "*There is no information in the record that identifies any situation in which it is safe to use domino felling to fell a danger tree. In fact, other commenters have indicated they know of no situation when felling another tree into a danger tree is considered safe practice*". The AOL can think of several situations when felling another tree into a danger tree {a hung up tree} is the safest procedure.

Hung up trees are very unpredictable. No one can accurately predict if or when one will fall unexpectedly from its own weight. This creates an extreme danger to a worker who may attempt to follow OSHA's recommendation and attach a line to a hung up tree in order to pull it down. A safer method may be for the well trained Timber Feller to size up the situation and decide to fall another tree into the hung up tree forcing it to the ground. In Oregon this is called "Driving" a tree, and differs from purposeful Domino Falling. Driving is done only when a tree unintentionally becomes hung up. Domino Falling is the practice of deliberately leaving cut up trees standing in order to push them all over at once by falling one tree into a group of cut up trees.

Another unsafe situation could arise when following the OSHA recommendation of hooking a skidder to a large hung up tree. Attaching a line to a large tree in the OSHA described manner could cause the skidder to become overmatched by the force of the

falling tree, in some cases exceeding the manufacturers recommended operating load capacities.

Another unsafe condition could be created by attempting to follow OSHA's recommended procedures on the steep terrain found in Oregon. Using a skidding machine, or mechanized falling machine on such ground may violate one or more rules, while exceeding the manufacturers operating guidelines. The safe method for dislodging a hung up tree in this case may be to Drive it with another tree.

Much of the ground being logged in Oregon is fragile land the landowner prohibits logging machines from operating on. Waiting for the high lead system being used to catch up to the danger zone created by a hung up tree would be impractical and unsafe. Again, the safe method of eliminating the danger zone may be to Drive the hung up tree.

In some cases individual trees have been effected by nature. Wind or age may have caused them to fall part way to the ground, sometimes leaving the partially fallen tree under great pressure. One such tree is referred to OSHA in the rules as a "*Spring Pole*". In rule {iv} under Manual Felling in the OSHA rules, OSHA specifically refers to spring poles being "*cut*" by an employee. For safety's sake, not all spring poles should be cut by an employee. There are some spring poles that are best Driven down by another tree.

The AOL does not offer the above situations as a complete or definitive list of situations where "Driving" a hung up or danger tree is the safest method to relieve the hazard. Nor does the AOL wish to be viewed as condoning the unsafe and foolish practice of deliberately setting timber up to be Domino Felled. However, we do wish to point out that the rules need to be written so trained loggers can deal with danger trees in the safest manner possible.

## [2] Manual felling.

{iv} Spring poles under pressure present a challenge to loggers. Only experienced, properly trained and authorized loggers, using the safest means available to them should attempt to fall, cut or dislodge a tree under pressure. Such trees don't always need to be cut by an employee, when a safer method of dealing with a tree under pressure may be to Drive it. This rule needs to be eliminated.

### [3] Bucking and limbing.

{ii} AOL feels that only trained and authorized loggers should be allowed to cut wind thrown trees. Bucking of blown down timber is too dangerous an assignment for a logger without the proper training. Table 5 provided in the October 12, 1994 Federal Register on page 51676 shows 12% of logging injuries occurred while employees bucked logs. The record does not show how many of those employees were bucking blown down timber. The AOL is concerned for the safety of workers bucking wind blown trees, but does not agree with OSHA when it requires precautions other than proper training and supervision must always be made when bucking any wind thrown tree.

OSHA states that a wind thrown tree prior to being bucked, must as a minimum precaution be choked. Attaching a line from a skidding machine is at times a good precaution loggers may have available to them. However, there are many times when attaching a choker from a machine to a wind fall about to be bucked is unnecessary and a greater hazard than bucking the tree without the choker attached. Whenever employees are working near a chain saw and a skidding machine while both are being operated, an increased likelihood of a missed communication is created. The result of poor communication could be the line being tightened or slackened at the wrong time, which could result in an injury. If attached incorrectly, or if the log reacts differently than expected after it is bucked clean, the line could possibly break striking the bucker, or the line could strike the bucker while still attached to the log causing an injury. In either case the worker would have been better off not following OSHA recommendations of always chocking wind falls before they are bucked. Also, the machine attached to the choker could be over stressed, possibly exceeding the manufacturers recommended load capacities once the tree has been bucked clean from the root wad. One other consideration to take into account is the kind of terrain skidding machines might have to travel over just to reach a wind fall in order to attach a choker to it. This could require the machine operator to exceed the manufacturers recommended operating guidelines, or place the machine in an unsafe position once the choker is attached and the log creates a sudden and hard pull as the log is bucked free of the root wad.

Although wind falls sometimes do lay in such a way that they are too dangerous to safely buck without first attaching a line to them, most often they require the trained Feller/Bucker to carefully survey the tree to determine the safest method to proceed. Often that is to find the safest place to stand when making the cut, having an escape

route planned, and finally applying their experience and training to simply make the cut without the added complications of other employees, machines, and lines to worry about. The rule as written needs to be amended to allow trained employees to buck wind falls in the safest manner available to them. Not restricting them by always having to attach a line to a wind fall. Especially when doing so creates a greater hazard. The AOL feels the rules should stress that only experienced, trained employees be allowed to buck wind falls. We also feel the rules should require anyone about to buck a wind fall to carefully survey the situation to determine the safest way to proceed. Precautions such as, but not limited to attaching a line to wind falls about to be bucked should be an option to employees about to buck a wind fall. All other non essential employees should not be in the area of wind falls as they are being bucked.

#### [5] Yarding.

{iii} The AOL agrees that the safest place to position chokers being yarded in most cases is near the end of the log. This helps reduce the risk of an upending log. However, there are times when placing the choker near the center of a log {gut shot} is the safest method. The Oregon-OSHA Forest Activities Code Book has an exception in the rules to allow for certain logs to be gut shot. The OSHA code should be amended to allow experienced, trained loggers to determine if a gut shot is a safer way to move a particular log.

{v} The AOL does not understand why this rule is included in the OSHA rules, if the OSHA rules to not apply to cable logging. If the rule does belong in the OSHA rules should it not read "*skidding machine operators*" rather than "*yarder operators*"? The AOL asks that this rule be explained further.

In conclusion, the AOL staff feels from a careful reading of the preamble and rules published in the October 12, 1994 Federal Register that OSHA has an understanding of the basic logging methods and practices used in the Pacific Northwest. However, OSHA's understanding of more technical aspects is lacking. The times OSHA mandates that only their required procedure be followed is an example of this. Also, we do not feel OSHA has in many cases supported the need for certain rules by the record presented. The AOL feels strongly that many of the new OSHA rules are not needed in Oregon, and that the rules will not substantially reduce any significant risk. Rather, many of these rules will only amount to regulatory extremes, imposing an unnecessary

burden on employers. We hope OSHA considers how state plan logging rule books such as Oregon-OSHA's Forest Activities Code Book give logging contractors a more reasonable set of rules to comply with, without imposing such an unnecessarily burden. Forcing Oregon-OSHA to adopt the OSHA logging rules would weaken the Forest Activities Code Book many in Oregon have worked to write over many years.

Sincerely,

Associated Oregon Loggers, Inc.

A handwritten signature in black ink, appearing to read "H. Mike Miller".

H. Mike Miller  
Executive Vice President

Senator BURNS. Thank you. We thank you for coming today. Charlie is it Leidigh?

Mr. LEIDIGH. Yes, sir.

Senator BURNS. There he is.

Mr. LEIDIGH. Conrad, I really appreciate you being here. And I will say this, that if they implement some of these equipment standards, that myself and a certain percent of the people here will immediately be out of business. And so—and I also did—I will be short. I just have a petition here signed by about, oh, over 700 people, loggers, truckers and associates and having to do with small business, and they are saying this: We want some SBA laws changed. You are on the Small Business Committee and we appreciate that, and unless these access to salvage timber is changed, a lot of us are out of business or will be out of business, and it is just going to waste. We just about burned up in the Yaak last year. If the wind would have changed we would have all been gone. So I will leave this with you, and I appreciate your concern. We certainly need those laws changed. It has to do with the S.S.T.S.

Senator BURNS. OK, Charlie. I will bring you up-to-date. That is not part of this hearing I understand. But the forest help bill that my secretary and myself is moving its way through the Senate. I fully expect that to become law so that we have some rules and guidelines to get into the salvaged timber where we have bad damage, and we hope to have that—I would hope by the 4th of July—and that law on the President's desk. Now, the President is not really that tickled about it but, you know, we will take it up to the zoo.

I have one left here. Charlie Parke from Drummond. There he is.

Mr. PARKE. I guess I have been visited by OSHA so I will tell you a bit about how they do it. We had a fatality a few years ago. And I think they were designed to regulate factories that employed thousands of people that many stockholders do not know and do not give a damn about. Now, this man that got killed on our job was the best friend I ever had. And anyway, they came and checked out the job. There was not a thing wrong. They could not find a thing we could have done to prevent it.

I have been visited by them twice since. One time they got their video camera out and intimidated a couple timber fallers that had been in the business for 20 years and told them that they were not sawing these trees right. And they questioned, How do you know? And he said, In this book here. In this book. He never got his book out. I assume he read it. But anyway, they were cutting the holding wood clear away so these trees would roll out of other trees that were meant to be left.

And he checked out our MSDS sheets which told the men, Do not drink gas; if you do drink gas—how stupid can they get? Put their money to saving people instead of telling them, Do not drink gas. They have to go around bothering our people, Do not drink this; it is diesel. If you do drink it—we do not need that.

But anyway, they got in a big rile with the sawyers. The bottom line was when I showed up the next day—I wish I had been there. Again, you may not have been bothered with Virgil again. I am kind of a radical here. The fallers told me, If we have to do what

this knucklehead said, we quit. They said, We do not want to get hurt. They had over 20 years of experience apiece and none of them ever had a Work Comp. claim.

They said we do not understand anything but finances. There is nothing that will put a logging contractor out of business faster than accidents. We do not need them to fine us out of business. We will put ourselves out. We do not work if we have to do what this guy says we have to do, and here is this guy who says they either do what I say or you get fined.

Anyway, we paid the fine. We probably should have taken them to the Supreme Court but who has got time, so we paid the fine.

They come up on another job. I have men that they check the machinery out and it was safe. A month later they come up on another job. They said, We do not want to check you. We have already got you. And the operator said, I would like you to look this machine over and tell me anything if you do check me. His comment was, We do not give out advice; we give out citations.

As Julie said, why do they not help us be safer if they are interested in safety? They are interested in funding their pocketbook. They are another government parasite that we have allowed to be voted upon yourselves by a small law that became a monstrous regulation. They are parasites. We do not need them.

The loggers in Montana, the Work Comp. in the State, the MLA, the loggers, they have their own Work Comp. deal with safety. They deal with it on a local basis. We do not need these Federal parasites. We do not need one or two rules done away with; we need them out of here. If somebody that hires 20,000 people and does not know the first name of them needs regulated, that is fine. We do not need it. The biggest logging contractor I know has 40 or 50 people. They know them all by their first name. We employ kids that grew up with my kids. We are not going to let these guys get hurt if we can possibly help it. We are out there with them ourselves. We do not need these guys. We do not need to do away with this or that; we need them out of here so we can go on and make a living so the State and local and people with good judgement can take care of this problem.

And I appreciate you being here. I am a little riled up. I had to leave an athletic competition my daughter was in to be here to defend my right to freedom that was given me by God that nowadays the bureaucrats think they give me. We need them out of here.

Senator BURNS. I will tell you what. I would rather watch my daughter play basketball. But I know there comes a time when you just cannot do that.

We are going to draw these hearings to a close, and anyone that wants to leave comments can sure leave them with us and we will make them part of the record. This Committee will remain open. Questions can be asked of our—all of the people who witnessed here today, and their responses will have to come back to the Committee and to the individual Committee members. So we appreciate very much you coming here today. We appreciate very much the thoughtfulness that has been put into the testimony.

Again, I want to—and I realize they are the problem and sometimes we are the problem. But I still want to thank the representa-

tives from OSHA for sticking around and listening, because they do not do that in that town of Washington.

I heard a great comment the other day and I will just leave it with you before we close. This lady, the new representative from northern Idaho, Helen Schiller, she is a new Congresswoman from over there and she is a very, very bright woman and she said, Welcome to Washington. This is the only town in America when you can drive all the way across it and never leave the scene of the crime.

But thank you for coming. These hearings are closed. Thank you very much.

[Whereupon, at 3:40 p.m. the Committee was adjourned.]

## **COMMENTS FOR THE RECORD**

March 11, 1995

Senator Burns, members of the committee:

My name is Lyle Brist , owner of a small company with 4 full-time employee's. I would like to express my frustration today over the new OSHA rules. I believe in safety, and have had a very effective safety program in place since 1985.

I would like to point out just **2 of many frustrating issues**: First Item 9 titled bookkeeping states; "this final rule does not contain any record keeping requirements" yet all we hear is document this or that and keep training records. Second concerns the "lockout tagout energy control procedures", we must shut all power systems off, remove key, turn off master switch, and remove positive battery cable. My objection is in removing the battery cable, this over time will cause wear and possibly create a poor connection and possibility of sparking. Just turning off the master switch accomplishes the same thing without any hazards.

Thank you for listening to our concerns, and I look forward to a common sense solution to our problems.

Lyle Brist



Brist Logging  
71 Crystal Lake  
Libby, Montana  
59923

SCOPE--How inclusive is this rule? One of the things it appears to do is set the standard for all falling operations although it says "logging operations". Do you see firewood cutters and firefighters fitting under this rule?

LIABILITY--Who becomes the liable party in a falling accident? It appears the contractor and landowner bear all the burden of liability. What responsibility does the employee have?

DOMINO FALLING--The rules point out that certain danger trees must be removed using mechanical methods or other techniques. What would you consider some of the other techniques. Specifically, how would danger trees be addressed in helicopter logging areas where mechanical methods for remaining danger trees are not readily available.

FOREST SERVICE ROLE--Are the Forest Service Sale Administrators going to become OSHA inspectors. It appears that in order to reduce their liability, the Forest Service will be required to monitor and document OSHA violations.

DANGER TREES--Do you see any opportunities to leave dead trees standing in cutting units? Federal land management agencies are charged with managing resources other than timber such as wildlife, fisheries and recreation. To require danger trees to be felled or avoided by at least two treelengths may jeopardize the timber programs on Federal lands.

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March 11, 1995



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Senator Conrad Burns  
U.S. Senate  
Washington, D.C. 20510

RE: Senate Committee on Small Business/Oversight Hearing  
Kalispell, MT

The Associated Logging Contractors of Idaho, Inc. (ALC) files this into the record of the Senate Committee Hearing of March 11, 1995 in Kalispell, MT. This is our interpretation of problems with the Final Rule; Logging Operations 1910.266, published in the October 12, 1994 Federal Register. Our Association of family owned logging businesses has worked vigorously promoting safety in the state of Idaho for many years. In studying both the standard and the interpretation of the Standard, ALC feels that a delay in implementation and rewriting of the Standard are needed. The rewriting of this Standard is necessary to preserve the viability of small Logging Businesses in the State of Idaho.

As written there are many Standards that are impossible to meet with existing technology, thus encourages people to violate them in an attempt to stay in business. In the Rocky Mountain Region, we have many stands of timber that could not be legally logged and would cause great hardship on the very people that The Standard was designed to help.

We have seen a great reduction in our accident frequency over recent years and feel that several parts of the Standard would be a step backwards causing many hazards. The data used to write the standard is very outdated and does not reflect what has been happening in the industry for several years.

With the limited time available to address the problems in the Standard, we made the following comments to be addressed.

## [d] General requirements [1] Personal protective equipment.

{ii} Idaho Logging Contractors are not required to inspect Personal Protective Equipment before initial use during each work shift. They are, however, required to comply with IDAPA 17.5 which states: "Workmen shall check their equipment at the beginning of each shift and make determinations as to serviceability." Requiring an "inspection before initial use during each work shift" by the Employer would not only be impractical, but costly and unlikely produce any type of significant results. Therefore, the "Every Work shift" requirements should be deleted.

{iii} The ALC maintains that gloves have historically been the tools of the trade furnished by the employee. Requiring the Employer to furnish the gloves would be costly because of employee abuse of the free gloves. This should be left to be agreed upon between employer and employee.

{iv} As in the previous Standard leg protection is a part of the tools of the trade and should be left to the individual company and the employee to work out. With the reason being, so many of these employees are very transient, the cost could be substantial with little or no gain on safety in the work place.

{v} During hot weather, the comfort and health of the employee's feet are dependent on a pair of boots that will breathe. The boot choice should be left to the individual employee as waterproof or water resistant could cause great discomfort if worn at the wrong time. For many years loggers in the Pacific Northwest have worn rubber or leather caulk soled boots. These boots have long provided the vital slip protection, ankle support and saw protection needed in the logging industry. Our records show that less than .5% ( $\frac{1}{2}$  of 1%) of our accidents are saw cuts to the feet which result in less than .2% of total claim cost for the industry. Ankle injuries account for a far greater amount of injuries and would only increase with the downgrade of ankle support that have become available in the new ballistic nylon shoes. ALC feels this standard is trying to address technology not yet in existence. We feel it is unreasonable to create great hardship with such a minimal gain.

{vi} A hard hat has been historically furnished by the employee. The requirement of the employer to furnish the hard hat at no cost to the employee would encourage misuse, thus escalating the employer's cost with no measurable gain.

{vii} This rule would require eye and face protection be worn by employees when there is a potential for injury due to falling or flying objects. From listening to the loggers, they have complained about the darkening effect of wearing face protection. They also complain of distorted peripheral vision, and problems with chips and sawdust sticking to the face protection making it difficult to see through during wet weather conditions. We have even heard of their view being obstructed when snow falls from the trees, blocking vision until the snow is cleared out. ALC feels employees exposed to potential eye injury should wear eye protection, and/or face protection, and will encourage them to continue. The ALC feels the rule should be amended so employees can choose on their own. The IDAPA states: "face shields may be used in lieu of other forms of eye protection where the nature of the operation is such that they will furnish equivalent protection.

[d] [2] First-Aid Kits. Reference Appendix A

{iii} First Aid Trainers have consistently taught against the use of tourniquets. The rule requiring a tourniquet to be in the first aid supplies should be eliminated for the protection of employees against the effects of using a tourniquet. No health care provider would endorse the tourniquet in a first aid kit. We need more clarification on some of the contents, such as, record keeping forms, wire splints.

Resuscitation equipment such as an airbag and airway are not taught in normal first-aid classes and would exceed the card authority. This type of equipment should only be used by advanced trained first-aid responders. Having this equipment on work sites that do not have advanced first aid responders would cause liability problems for the employer and the first aid responder.

{iii} A health care provider examining the contents of first aid kits is not needed in order to ensure an adequate supply of first aid supplies at a logging operation. The first aid rules thus far have been effective in ensuring employers know what to provide, and how those supplies are to be maintained. Mandating that a health care provider examine first aid kits would only place an unnecessary burden on the employers. This rule should be eliminated.

## [d] [3] Seat Belts.

{i} Idaho law already requires seat belts to be provided and worn by the driver and any passengers in a motor vehicle. However, making the employer responsible for the personal vehicles used by employees to get to and from work is unrealistic. A Logging Contractor has no more right to control an employees personal vehicle than does OSHA or any other employer.

{ii} Operators of logging machines equipped with Roll Over Protective Devices (ROPS) are required to wear seat belts. Advising skidding (Ground) machine operators to wear their seat belts is an area that gets a lot of attention. The purpose of wearing a seat belt should be to protect the operator. "Idaho Minimum Safety Standards for logging indicate that seatbelts shall be used unless the equipment operator and person in charge of the job site have reasonable cause to believe the safety of the operator is jeopardized by wearing a safety belt."

## [d] [5] Environmental Conditions.

The OSHA rule includes "fire" as a possible condition employees would not be able to work in. Initial fire suppression by trained loggers is vital and quite often contractually required to protect the future of Idaho's forests. Consideration needs to be given allowing for emergency conditions. Also, the OSHA rule states employees should move to a place of safety whenever an environmental condition may endanger them.

Following is a list of examples of "environmental conditions" that may or may not be considered hazardous, depending on the person's experience and judgement: Mudsslides for instance, we have never heard of or found anywhere that a logger performing his job was ever in danger or injured in a mudslide. Another example is historically some operators work in darkness without apparent problems such as feller bunchers, grapple skidders, delimiters and loading operators.

These conditions in their extreme can be dangerous, but ALC feels that the way they are incorporated in the Standard is only consuming space and not contributing to safe logging in Idaho. There is a broad range of variables that can apply to each and every condition mentioned, as well as the unmentioned conditions. This type of vague rule only promotes Inspectors to come in after an accident and cite as there is no clear definition of when a condition becomes hazardous. By properly training workers to recognize when conditions cannot be made safe due to environmental conditions, rather than when a remote possibility of danger exists is a key to providing a safe work place. The rule as written is too broad and should be made more specific.

## [d] [6] Work Areas.

{ii} This section obviously pertains to Timber Fallers. However, it does not state that, leaving it open to the interpretation that it applies to all employees. Where as many parts of a logging operation require employers to work together on a continuing basis. Such as landings, choker settings, snow shoveling, chasers, loading operations, training.etc. This section needs to be rewritten and the two tree length rule needs to be clarified.

## [d] [9] Flammable and combustible liquids.

{i} Requiring flammable and combustible liquids to be transported in accord with sub part H of 1910 will have a fiscal impact not noted by OSHA in the Final Rule. The containers currently being used by loggers to transport combustible liquids to and from the job site do not appear to be contributing to logging accidents. According to information provided by OSHA, burns, or chemical reactions do not pose a significant risk to loggers. This requirement should be deleted because the high cost of compliance is not supported by any data associating combustible liquids at logging operations to any logging injuries, and because the record does not indicate a significant risk to loggers.

{iii} The fuel transport vehicle normally must be running to power the fuel pump in order to fuel the heavy equipment (Skidders, Cats, Loaders, etc.). If the machine being fueled is powered with diesel fuel, it should be excluded from this rule due to lack of any evidence of hazard. This rule along with many others is excessive, and should be considered a regulatory extreme with a minimal gain in safety.

{iv} OSHA has not produced in the record any evidence this rule is needed. Burns from fire, or the combustible liquids used to start those fires do not represent a significant risk in the logging industry. This rule amounts to a regulatory extreme. The rule itself betrays OSHA's limited knowledge of the reality of starting a fire in the Pacific Northwest during much of the year. It should also be noted that loggers in the State of Idaho are often called upon to help start prescribed burns as a forest management practice. When prescribed fires are started, loggers generally USE combustible liquids as the fire starter. This rule needs to be eliminated completely.

## [e] [2] Chain saws.

{iv} The ALC does not wish to oppose any rule that may prevent a worker from getting burned by fire. However, it appears that OSHA is overestimating the risk from this threat. There are two problems with a rule that requires employees to be 20 feet from an open flame or ignition source when they fuel a chain saw. First, is the lack of evidence of a substantial risk in the record. Second, twenty feet from a warming fire in the dead of winter may place a landing chaser attempting to comply with such a rule in danger, or violation of several other rules. This Rule should be eliminated as a regulatory extreme.

{v} This rule, as the previous rule, should also be eliminated as a regulatory extreme.

{vi} The American Pulpwood Association in a recent publication "interprets {6} and {7} to permit starting a chain saw with the rear handle firmly gripped between the legs, the front handle firmly gripped with the arm straight and locked at the elbow, and the chain brake engaged." The ALC does not feel this is an acceptable method of starting a chain saw.

The ALC feels chain saw operators should be permitted to hold the saw firmly in one hand from an upright stance. With the saw firmly held, with the chain brake engaged, the bar can be rested securely on a log or other stationary item while the starting rope is pulled. This method reduces the strain on the back and other muscles by allowing the chain saw user to stand erect while starting the saw. Some woods workers may start a chain saw dozens of times during a day. They should be encouraged to start the chain saw in a way that allows for ergonomic considerations.

Table 6 on page 51676 of the October 12, 1994 Federal Register indicates a significant number of logging injuries are the result of muscle strains. Although the record shows far too many workers being cut by chain saws, the record does not specify if the workers were attempting to start a chain saw when the accident occurred. The rule should be amended to clarify what "otherwise firmly supported" means, taking the above comments into account.

{xii} The ALC agrees with the rule because it encourages, and reminds workers handling chain saws to do so in a manner that will help them avoid the cutting chain, and at times an extremely hot muffler. However, on page 51713, column 3, paragraph 1 of the October 12, 1994 Federal Register, OSHA explains that anyone who carries a chain saw over their shoulder is required to wear a "felt and/or leather pad". Many Timber Fellers do wear such a pad. Nowhere in the tables, or preamble leading up to the final rule does OSHA identify a significant risk from carrying a chain saw over the shoulder. This rule should be eliminated, and the choice to wear such a pad be left up to each individual Timber Feller.

[f] Machines. [1] General Requirements.

{iii} This rule is broad, vague, and too impractical to be complied with. Requiring employers in the logging industry to ensure that machines, including the personal vehicles of employees used for transportation to and from work is unrealistic. Machines, including vehicles owned, or operated by an employee must be maintained in serviceable condition. The rule should be eliminated in favor of rules that require employers to maintain their equipment in serviceable condition, or be taken out of service until the machine is returned to serviceable condition.

{iv} Keeping written training materials and operator manuals on the job site has been attempted by some logging contractors already. What they found was the materials eventually became soiled and ruined. They also learned that workers did not refer to these materials even when they were available. The workers had already been trained in the safe operation, use, and maintenance of tools and machines before they used or repaired them. With the exception of major repairs and maintenance the employees are trained to operate and perform routine maintenance and repairs safely. When major repairs are needed the operators manuals, along with the necessary tools, parts, and etc. are brought to the job site from the company shop or office. We do however, promote reasonable access to these manuals. A shop or office, not an active logging operation is where they are best kept. Ensuring worker safety in this area can best be accomplished by training workers how to operate and maintain logging machines before they are asked to operate or maintain them. The ALC feels that with proper training, as prescribed in the rules, this rule can and should be eliminated.

## [f] [2] Machine Operation

{xi} Discharging of stored energy is a function performed during maintenance. Hydraulic and pneumatic pressure does not present a hazard until maintenance is performed on or around these systems. This rule should be eliminated as it is already covered in the energy control requirements for maintenance.

## [g] [3] Protective Structures

{i} The retrofitting of machines that were not designed for ROPS or FOPS may be cost prohibitive and cause undue hardship on logging contractors with no significant improvement in operating safely.

{vii} The ALC is uncertain of the intent of this rule. We do agree that machine operators must be protected from objects entering into the cab while logging machines are being operated. However, ALC would oppose any rule that would require loggers in Idaho to enclose areas of machines that operators need to be able to see out of in order to operate the machine safely. The ALC asks that this rule be clarified. OSHA should place this burden on the manufacturer for any installation of required safety equipment. The retrofitting of ROPS cabs with solid material when not designed for it, appears to violate the standards that the manufacturers have set for these structures. This would cause many machines to require ROPS replacement with no ROPS to meet this standard to replace with. Thus, causing many machines to be needlessly scrapped with no significant improvement in operator safety.

{viii} This Standard as the previous Standard violates existing standards that govern ROPS and FOPS. This would be an unfair burden on the logging operators and not produce significant reduction in exposures.

We would like to refer OSHA to Table 19 on page 51679 of the October 12, 1994 Federal Register. It notes objects entering into cabs (Jillpokes) accounted for only 1% of the logging injuries over a specific period of time. On the other hand, accidents during that same period of time that in some form involved logging machine or vehicle operation accounted for 28.6% of the accidents. Clearly, this shows the importance of operators having a clear unobstructed view of their surroundings. Any rule that exchanges an operators ability to see clearly in favor of protection from Jillpokes is a mistake. Operators need to give thought to terrain and other exposures that change frequently.

{ix} This rule requires the "upper portion" of cabs to allow for maximum operator visibility. We feel the entire cab should be designed with maximum operator visibility in mind, as evidenced by the record. Modern logging machines are very large and fast, making it vitally important for the operator to be able to see the ground and any persons on the ground in the immediate vicinity of the machine. Retrofitting older cabs would cause many blind spots. We feel OSHA should keep operator visibility in mind, and reconsider this, and the preceding two rules.

[f] [6] Exhaust Systems.

{iii} The need for spark arresters is clearly defined in every state fire code. This item should be left to the state fire marshal and other agencies that govern fire equipment. Due to the fact, this is not an employee safety issue, it should be deleted from the rule as it is over regulation.

[g] Vehicles.

{1} Employers have no control over vehicles they do not own or operate. Vehicles owned or operated by employees, and which are used to transport the employee to the job are not the responsibility of the employer. Logging employees and their personal property should not be viewed any differently than an employee working for any other employer, including OSHA. The ALC agrees that employer owned and/or operated vehicles must be maintained in serviceable condition if they are going to be safe to operate. However, this rule needs to be amended so employers are responsible only for those vehicles they own and/or operate.

Employees should be responsible for the serviceable condition of their vehicles, regardless of the type of usage. We feel that this type of ruling is overkill, harsh, and places too much liability on the logging company ownership. If this be the case, the employer could be indirectly responsible for employee vehicle liability; even events occurring not connected with Company business purposes.

The serviceability of personal vehicles is not a duty or right of any employer. State and Federal regulations cover these vehicles and should be left to the appropriate enforcement agency to control.

[g] [2] The reasons ALC objects to requirements that force employers to conduct inspections of vehicles, machines, tools, Personal protective equipment, and etc., have already been noted in this letter. This rule should be eliminated in favor of rules that require vehicles, machines, tools, Personal protective equipment and etc., to be maintained in serviceable condition, or be taken out of service.

Also, already noted are the ALC objections to making employers responsible for the personal vehicles of their employees which are not owned or operated by the employer. This rule should be eliminated.

[g] [3] As stated earlier, maintenance material should be left where it can be maintained, not thrown wherever it will be destroyed. This rule was stated earlier and we feel that it is still over regulation with no gain in safety.

[g] [7] As stated in this standard, this has been stated several times and we again voice our objection to requiring an employer to violate an employees right to privacy in regards to his private vehicle.

[h] Tree Harvesting. [1] General Requirements.

{vi & ix} The ALC agrees that the practice of purposely Domino Felling timber is an unsafe work practice, and should not be practiced. However, we disagree with OSHA, and several of the comments on page 51723, column 1, the final paragraph in the October 12, 1994 Federal Register that lead up to OSHA stating: 'Therefore, OSHA is not permitting removal of any tree, including a danger tree, by domino felling.' OSHA concluded that there are only two safe ways to proceed once a tree being felled gets hung up, creating a leaning, unstable tree. The first is to leave the hung up tree where it is, then marking the hazardous area and alerting everyone in the area of the danger. A hung up tree is one of, if not the most serious of all logging hazards, so for production and safety reasons, this method is wisely seldom used. OSHA's other recommended method is to hook a hung up tree with a skidder and pull the tree down, or to use some other mechanical means to fall the tree. In it's comments OSHA states 'There is no information in the record that identifies any situation in which it is safe to use domino felling to fell a danger tree. In fact, other commenters have indicated they know of no situation when felling another tree into a danger tree is considered safe practice'. The ALC can think of several situations when felling another tree into a danger tree (a hung up tree) is the safest procedure.

Hung up trees are very unpredictable. No one can accurately predict if or when one will fall unexpectedly from it's own weight. This creates an extreme danger to a worker who may attempt to follow OSHA's recommendation and attach a line to a hung up tree in order to pull it down. A safer method may be for the well trained Timber Feller to size up the situation and decide to fall another tree into the hung up tree forcing it to the ground. This is also called "Driving" a tree, and differs from purposeful Domino Falling. Driving is done only when a tree unintentionally becomes hung up. Domino Falling is the practice of deliberately leaving cut up trees standing in order to push them all over at once by falling one tree into a group of cut up trees.

Another unsafe situation could arise when following the OSHA recommendation of hooking a skidder to a large hung up tree. Attaching a line to a large tree in the OSHA described manner could cause the skidder to become overmatched by the force of the falling tree, in some cases exceeding the manufacturers recommended operating load capacities. Causing the machine, rubber tired skidders notably to become overbalanced and creating an accident. Common Sense scenarios must be addressed.

Another unsafe condition could be created by attempting to follow OSHA's recommended procedures on the steep terrain found in Idaho. Using a skidding machine, or mechanized falling machine on such ground may violate one or more rules, while exceeding the manufacturers operating guidelines. The safe method for dislodging a hung up tree in this case may be to Drive it with another tree. We need to come to some sensible solution and decide when and where "Domino Falling" starts and/or stops. ALC maintains its stand on driver trees concepts.

Much of the ground being logged is fragile land the landowner prohibits logging machines from operating on. Waiting for the high lead system being used to catch up to the danger zone created by a hung up tree would be impractical and unsafe. Again, the safe method of eliminating the danger zone may be to Drive the hung up tree.

In some cases individual trees have been effected by nature. Wind or age may have caused them to fall part way to the ground, sometimes leaving the partially fallen tree under great pressure. One such tree is referred to OSHA in the rules as a "spring pole." In rule {iv} under Manual Felling in the OSHA rules, OSHA specifically refers to spring poles being "cut" by an employee. For Safety's sake, not all spring poles should be cut by an employee. There are some spring poles that are best Driven down by another tree.

The ALC does not offer the above situations as a complete or definitive list of situations where "Driving" a hung up or danger tree is the safest method to relieve the hazard. Nor does the ALC wish to be viewed as condoning the unsafe and foolish practice of deliberately setting timber up to be Domino Felled. However, we do wish to point out that the rules need to be written so trained loggers can deal with danger trees in the safest manner possible.

[h] [2] Manual felling.

{iv} Spring poles under pressure present a challenge to loggers. Only experienced, properly trained and authorized loggers, using the safest means available to them should attempt to fall, cut or dislodge a tree under pressure. Such trees don't always need to be cut by an employee, when a safer method of dealing with a tree under pressure may be to Drive it. This rule needs to be eliminated.

{vii} In the use of the Humbolt or open face, the Standard has been that the back cut be even or above. The ALC feels that these cuts have worked very well and should not be abandoned for less familiar cuts that may not have the credibility and consistent results that we need in the woods.

[h] [3] Bucking and limbing.

{ii} ALC feels that only trained and authorized loggers should be allowed to cut "wind thrown trees". Bucking of blown down timber is too dangerous an assignment for a logger without the proper training. Table 5 provided in the October 12, 1994 Federal Register on page 51676 shows 12% of logging injuries occurred while employees bucked logs. The record does not show how many of those employees were bucking blown down timber. The ALC is concerned for the safety of workers bucking wind blown trees, but does not agree with OSHA when it requires precautions other than proper training and supervision must always be made when bucking any wind thrown tree.

OSHA states that a wind thrown tree prior to being bucked, must as a minimum precaution be choked. Attaching a line from a skidding machine is at times a good precaution loggers may have available to them. However, there are many times when attaching a choker from a machine to a wind fall about to be bucked is unnecessary and a greater hazard than bucking the tree without the choker attached. Again, consideration should be directed to the machine being overpowered by the situation.

Whenever employees are working near a chain saw and a skidding machine while both are being operated. an increased likelihood of a missed communication is created. The result of poor communication could be the line being tightened or slackened at the wrong time, which could result in an injury. If attached incorrectly, or if the log reacts differently than expected after it is bucked clean, the line could possibly break striking the bucker, or the line could strike the bucker while still attached to the log causing an injury. In either case the worker would have been better off not following OSHA recommendations of always chocking wind falls before they are bucked. Also, the machine attached to the choker could be over stressed, possibly exceeding the manufacturers recommended load capacities once the tree has been bucked clean from the root wad. One other consideration to take into account is the kind of terrain skidding machines might have to travel over just to reach a wind fall in order to attach a choker to it. This could require the machine operator to exceed the manufacturers recommended operating guidelines, or place the machine in an unsafe position once the choker is attached and the log creates a sudden and hard pull as the log is bucked free of the root wad.

Although wind falls sometimes do lay in such a way that they are too dangerous to safely buck without first attaching a line to them, most often they require the trained Feller/Bucker to carefully survey the tree to determine the safest method to proceed. Often that is to find the safest place to stand when making the cut, having an escape route planned, and finally applying their experience and training to simply make the cut without the added complications of other employees, machines, and lines to worry about. The rule as written needs to be amended to allow experienced employees to buck wind falls in the safest manner available to them. Not restricting them by always having to attach a line to a wind fall. Especially when doing so creates a greater hazard. The ALC feels the rules should stress that only experienced, trained employees be allowed to buck wind falls. We also feel the rules should require anyone about to buck a wind fall to carefully survey the situation to determine the safest way to proceed, this bears communicating between sawyer and management. Precautions such as, but not limited to attaching a line to wind falls about to be bucked should be an option to employees about to buck a wind fall. All other non essential employees should not be in the area of wind falls as they are being bucked.

## (h) [5] Yarding.

{iii} The ALC agrees that the safest place to position chokers being yarded in most cases is near the end of the log. This helps reduce the risk of an upending log. However, there are times when placing the choker near the center of a log (gut shot) is the safest method. The OSHA code should be amended to allow experienced, trained loggers to determine if a gut shot is a safer way to move a particular log. This should be eliminated because it is excessive with no significant benefit.

{v} The ALC does not understand why this rule is included in the OSHA rules, if the OSHA rules do not apply to cable logging. If the rule does belong in the OSHA rules should it not read "skidding machine operators" rather than "yarder operators"? The ALC asks that this rule be explained further.

## [i] [7] First Aid Training

{i}, {ii}, and {iii} The need for every employee to have current first aid needs to have some flexibility to compensate for the transient nature of the workforce. Most employers are not first aid instructors and to require them to have first aid cards before they can start work will cause a hardship on both employee and employer with very marginal gains for safety in the woods. This Standard should allow reasonable time periods for an employee to receive his card.

CONCLUSION

It is our strong desire to promote safety and health in the logging industry. We believe that sensible solutions can be reached without jeopardizing the safety and health of employees. In most cases, common sense and experienced employees are to be given a certain amount of consideration and respect for their knowledge.

We feel that in order to accomplish proper resolution of the regulatory flaws in this Standard, it would require new and more up-to-date public comment. Regulations such as this will only hamper the Small Businesses of Idaho without a measurable increase in safety. We can only assume that OSHA intended to initiate these rules without being held accountable for their content. This is why these rules must be rewritten so our people can perform as the professionals they are without this unreasonable Governmental interference.

Sincerely,

Jack A. Buell  
President  
Associated Logging Contractors, Inc.

JB/dmm

## J.C. Logging, Inc.

6260 St Thomas Dr • Missoula, MT 59803 • 406-251-5153 • Fax 406-251-4435

March 2, 1995

Conrad Burns  
U.S. Senator  
575 Sunset Blvd. #101  
Kalispell, MT 59901

Dear Senator Burns:

Please notice the enclosed OSHA rules dated October 1994. I have numbered the laws I am addressing in this letter.

1. These fallers make a good wage, part of that is because I require all my fallers to supply their own saws and safety equipment. They have used face and leg protection for years. It is the employees responsibility to have all of his supplies in order to work for my company.
2. Boots should be the employees choice. Everyone has different feet and could require any number of different boots. These men are professionals and know what is most comfortable and safe for themselves.
3. This is only adding more expense to the first aid kits we provide already.
4. Making the employer responsible for seat belts in an auto he doesn't own is totally out of line.
5. This is showing the ignorance of the people writing these laws. I would have to be on every job from 3:00 a.m. until as late as 9:00 p.m., besides the fact that I often have men working two or three jobs many miles from each other. This issue has been addressed many years ago with the buddy system, plus we have had high frequency band radios for many years.
6. These loggers are responsible professionals and do not need to be baby sat.
7. The employees using chain saws are professionals and make their living

with this equipment. They know far better than anyone else how to handle and maintain them. To go and tell them how to run their own saw would be degrading and humiliating to the employee.

8. This law makes a person seem totally incompetent. You cannot run or make a living without keeping the machinery in good working order.

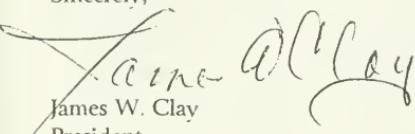
9. This rule is dangerous in my opinion. My employees feel their visibility is seriously impaired.

In my professional opinion these laws are insulting to my employees. An employer should treat his employees with respect and give them responsibility so they take pride in their work. Loggers are not dare devils out for a thrill, they are trying to make a living for themselves and their families.

Government is making people feel they should be taken care of, causing people to lose their self respect and any desire to take care of themselves and their family. We need to be responsible for our selves and our families and regain some pride in doing so.

I have been logging for thirty years. I am proud of the fact that I employ thirteen men who take pride in their work and the safety of themselves and their co-workers. Because of OSHA and workers compensation insurance in our state, our net earnings have been shrinking for the past ten years.

Sincerely,

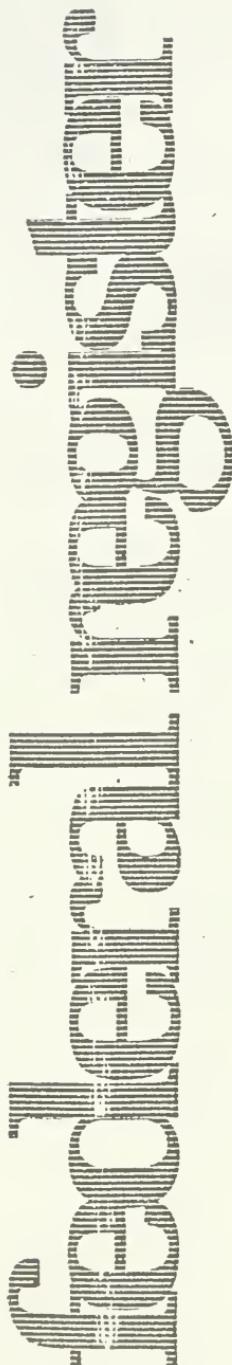


James W. Clay

President

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Wednesday  
October 12, 1994



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**Part II**

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**Department of Labor**

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Occupational Safety and Health  
Administration

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29 CFR Parts 1910 and 1928  
Logging Operations; Final Rule

and loggers to provide as much safety as possible using varying methods consonant with conditions in each State.

In short, there is a clear national problem related to occupational safety and health in the logging industry. While the individual States, if all acted, might be able collectively to deal with the safety problems involved, most have not elected to do so in the twenty-four years since the enactment of the OSH Act. Those States which have elected to participate under Section 18 of the OSH Act would not be preempted by this standard and would be able to deal with special, local conditions within the framework provided by this performance-oriented standard while ensuring that their standards are at least as effective as the Federal standard. State comments are invited on this proposal and will be fully considered prior to promulgation of a final rule.

#### XI. State Plan Standards

The 25 States with their own OSHA approved occupational safety and health plans must adopt a comparable standard within six months of the publication date of the final standard. These States are: Alaska, Arizona, California, Connecticut (for State and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York (for State and local government employees only), North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming. Until such time as a State standard is promulgated, Federal OSHA will provide interim enforcement assistance, as appropriate, in these States.

#### List of Subjects

##### 29 CFR Part 1910

Chain saw, Forestry, Harvesting, Incorporation by reference, Logging, Occupational safety and health, Pulpwood timber, Safety, Training.

##### 29 CFR Part 1928

Agriculture, Migrant labor, Occupational safety and health.

#### XII. Authority and Signature

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210.

Accordingly, pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 1-

90 (55 FR 9033), and 29 CFR part 1911, 29 CFR parts 1910 and 1928 are amended as set forth below.

Signed at Washington, DC, this 4th day of October 1994.

Joseph A. Dear,  
Assistant Secretary of Labor.

#### PART 1910—[AMENDED]

##### Subpart R—Special Industries

1. The authority citation for subpart R of part 1910 is revised to read as follows:

**Authority:** Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order Nos. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736) or 1-90 (55 FR 9033), as applicable.

Sections 1910.261, 1910.262, 1910.265, 1910.266, 1910.267, 1910.268, 1910.272, 1910.274, and 1910.275 also issued under 29 CFR part 1911.

Section 1910.272 also issued under 5 U.S.C. 553.

2. Section 1910.266 is revised to read as follows:

##### § 1910.266 Logging operations.

###### (a) Table of contents.

This paragraph contains the list of paragraphs and appendices contained in this section.

- a. Table of contents
- b. Scope and application
- c. Definitions
- d. General requirements
  - 1. Personal protective equipment
  - 2. First-aid kits
  - 3. Seat belts
  - 4. Fire extinguishers
  - 5. Environmental conditions
  - 6. Work areas
  - 7. Signaling and signal equipment
  - 8. GXL, head electric lines
  - 9. Flammable and combustible liquids
  - 10. Explosives and blasting agents
  - 11. Hand and portable powered tools
  - 12. Chain saws
  - f. Machines
    - 1. General requirements
    - 2. Machine operation
    - 3. Protective structures
    - 4. Overhead guards
    - 5. Machine access
    - 6. Exhaust systems
    - 7. Brakes
    - 8. Guarding
    - g. Vehicles
      - h. Tree harvesting
        - 1. General requirements
        - 2. Manual felling
        - 3. Bucking and limbing
        - 4. Chipping
        - 5. Yarding
        - 6. Loading and unloading
        - 7. Transport
        - 8. Storage
        - i. Training
        - j. Effective date.

##### k. Appendices

###### Appendix A—Minimum First-aid Supplies

###### Appendix B—Minimum First-aid Training

###### Appendix C—Corresponding ISO Agreements

###### (b) Scope and application.

(1) This standard establishes safety practices, means, methods and operations for all types of logging, regardless of the end use of the wood. These types of logging include, but are not limited to, pulpwood and timber harvesting and the logging of sawlogs, veneer bolts, poles, pilings and other forest products. This standard does not cover the construction or use of cable yarding systems.

(2) This standard applies to all logging operations as defined by this section.

(3) Hazardous and working conditions not specifically addressed by this section are covered by other applicable sections of Part 1910.

###### (c) Definitions applicable to this section.

*Arch.* An open-framed trailer or built-up framework used to suspend the leading ends of trees or logs when they are skidded.

*Backcut (felling cut).* The final cut in a felling operation.

*Ballistic nylon.* A nylon fabric of high tensile properties designed to provide protection from lacerations.

*Buck.* To cut a felled tree into logs.

*Butt.* The bottom of the felled part of a tree.

*Cable yarding.* The movement of felled trees or logs from the area where they are felled to the landing on a system composed of a cable suspended from spars and/or towers. The trees or logs may be either dragged across the ground on the cable or carried while suspended from the cable.

*Chock.* A block, often wedge shaped, which is used to prevent movement; e.g., a log from rolling, a wheel from turning.

*Choker.* A sling used to encircle the end of a log for yarding. One end is passed around the load, then through a loop eye, end fitting or other device at the other end of the sling. The end that passed through the end fitting or other device is then hooked to the lifting or pulling machine.

*Danger tree.* A standing tree that presents a hazard to employees due to conditions such as, but not limited to, deterioration or physical damage to the root system, trunk, stem or limbs, and the direction and lean of the tree.

*Debark.* To remove bark from trees or logs.

*Deck.* A stack of trees or logs.

*Designated person.* An employee who has the requisite knowledge, training

and experience to perform specific duties.

**Domino felling.** The partial cutting of multiple trees which are left standing and then pushed over with a pusher tree.

**Fell (fall).** To cut down trees.

**Feller (faller).** An employee who falls trees.

**Crowned.** The placement of a component of a machine on the ground or on a device where it is firmly supported.

**Guarded.** Covered, shielded, fenced, enclosed, or otherwise protected by means of suitable enclosures, covers, ransings, shields, troughs, railings, screens, mats, or platforms, or by location, to prevent injury.

**Health care provider.** A health care practitioner operating with the scope of his/her license, certificate, registration or legally authorized practice.

**Landing.** Any place where logs are laid after being yarded, and before transport from the work site.

**Limb.** To cut branches off felled trees.

**Lodged tree (hung tree).** A tree leaning against another tree or object which prevents it from falling to the ground.

**Log.** A segment sawed or split from a felled tree, such as, but not limited to, a section, bolt, or tree length.

**Logging operations.** Operations associated with felling and moving trees and logs from the stump to the point of delivery, such as, but not limited to, marking, felling, bucking, limbing, debarking, chipping, yarding, loading, unloading, storing, and transporting machines, equipment and personnel from one site to another.

**Machine.** A piece of stationary or mobile equipment having a self-contained powerplant, that is operated off-road and used for the movement of material. Machines include but are not limited to tractors, skidders, front-end loaders, scrapers, graders, bulldozers, swing yards, log stackers, and mechanical felling devices, such as tree shearers and feller-bunchers.

**Rated capacity.** The maximum load a system, vehicle, machine or piece of equipment was designed by the manufacturer to handle.

**Rock wad.** The ball of a tree root and dirt that is pulled from the ground when a tree is uprooted.

**Serviceable condition.** A state or ability of a tool, machine, vehicle or other device to operate as it was intended by the manufacturer to operate.

**Skidding.** The yarding of trees or logs by pulling or towing them across the ground.

**Slope (grade).** The increase or decrease in altitude over a horizontal

distance expressed as a percentage. For example, a change of altitude of 20 feet (6 m) over a horizontal distance of 100 feet (30 m) is expressed as a 20 percent slope.

**Snag.** Any standing dead tree or portion thereof.

**Spring pole.** A tree, segment of a tree, limb, or sapling which is under stress or tension due to the pressure or weight of another object.

**Tie down.** Chain, cable, steel strips or fiber webbing and binders attached to a truck, trailer or other conveyance as a means to secure loads and to prevent them from shifting or moving when they are being transported.

**Undercut.** A notch cut in a tree to guide the direction of the tree fall and to prevent splitting or kickback.

**Vehicle.** A car, bus, truck, trailer or semi-trailer that is used for transportation of employees or movement of material.

**Winching.** The winding of cable or rope onto a spool or drum.

**Yarding.** The movement of logs from the place they are felled to a landing.

**(d) General requirements.** (1) **Personal protective equipment.** (i) The employer shall assure that personal protective equipment, including any personal protective equipment provided by an employee, is maintained in a serviceable condition.

(ii) The employer shall assure that personal protective equipment, including any personal protective equipment provided by an employee, is inspected before initial use during each workshift. Defects or damage shall be repaired or the unserviceable personal protective equipment shall be replaced before work is commenced.

(iii) The employer shall provide, at no cost to the employee, and assure that each employee handling wire rope wears cotton gloves or other hand protection which the employer demonstrates provides equivalent protection.

(iv) The employer shall provide, at no cost to the employee, and assure that each employee who operates a chain saw wears ballistic nylon leg protection or other leg protection the employer demonstrates provides equivalent protection.

(v) The employer shall provide, at no cost to the employee, and assure that each employee who operates a chain saw wears ballistic nylon leg protection or other leg protection the employer demonstrates provides equivalent protection. The leg protection shall cover the full length of the thigh to the top of the boot on each leg to protect against contact with a moving chain saw. *Exception:* This requirement does not apply when an employee is working as a climber if the employer demonstrates that a greater hazard is posed by wearing leg protection in the particular situation, or when an employee is working from a vehicular mounted elevating and rotating work

platform meeting the requirements of 29 CFR 1910.68.

(vi) The employer shall assure that each employee shall wear foot protection, such as heavy-duty logging boots, that are waterproof or water repellent, cover and provide support to the ankle, and protect the employee from penetration by chain saws. Sharp, calc-sil-coated boots or other slip-resistant type boots may be worn where the employer demonstrates that they are necessary for the employee's job, the terrain, the timber type, and the weather conditions, provided that foot protection otherwise required by this paragraph is met.

(vii) The employer shall provide, at no cost to the employee, and assure that each employee who works in an area where there is potential for head injury from falling or flying objects wears head protection meeting the requirements of subpart I of Part 1910.

(viii) The employer shall provide, at no cost to the employee, and assure that each employee who works in an area there is a potential for injury due to falling or flying objects wears eye and face protection meeting the requirements of subpart I of Part 1910. Logger-type mesh screens may be worn, where the employer demonstrates that they provide equivalent protection.

(2) **First-aid kits.** (i) The employer shall provide first-aid kits at each work site where felling is being conducted, at each landing, and on each employee transport vehicle. The number of first-aid kits and the content of each kit shall reflect the degree of isolation, the number of employees, and the hazards reasonably anticipated at the work site.

(ii) At a minimum, each first-aid kit shall contain the items listed in Appendix A at all times.

(iii) The number and content of first-aid kits shall be reviewed and approved at least annually by a health care provider.

(iv) The employer shall maintain the contents of each first-aid kit in a serviceable condition.

(3) **Seat belts.** For each vehicle or machine (equipped with ROPS/FOPS or overhead guards), including any vehicle or machine provided by an employee, the employer shall assure:

(i) That a seat belt is provided for each vehicle or machine operator;

(ii) That each employee uses the available seat belt while the vehicle or machine is being operated;

(iii) That each employee securely and tightly fastens the seat belt to restrain the employee within the vehicle or machine cab;

(iv) That each machine seat belt meets the requirements of the Society of

Automotive Engineers Standard SAE J386, June 1985, "Operator Restraint Systems for Off-Road Work Machines." This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, PA 15096. Copies may be inspected at the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., room N2625, Washington, DC 20210, or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(v) That seat belts are not removed from any vehicle or machine. The employer shall replace each seat belt which has been removed from any vehicle or machine that was equipped with seat belts at the time of manufacture; and

(vi) That each seat belt is maintained in a serviceable condition.

(4) **Fire extinguishers.** The employer shall provide and maintain portable fire extinguishers on each machine and vehicle in accordance with the requirements of subpart L of Part 1910.

(5) **Environmental conditions.** All work shall terminate and each employee shall move to a place of safety when environmental conditions, such as but not limited to, electrical storms, high winds, heavy rain or snow, extreme cold, dense fog, fires, mudslides, and darkness, may endanger an employee in the performance of their job.

(6) **Work areas.** (i) Employees shall be spaced and the duties of each employee shall be organized so the actions of one employee will not create hazard for any other employee.

(ii) Work areas shall be assigned so that trees cannot fall into an adjacent occupied work area. The distance between adjacent occupied work areas shall be at least two tree lengths of the trees being felled. The distance between adjacent occupied work areas shall reflect the degree of slope, the density of the growth, the height of the trees, the soil structure and other hazards reasonably anticipated at that work site. A distance of greater than two tree lengths shall be maintained between adjacent occupied work areas on any slope where rolling or sliding of trees or logs is reasonably foreseeable.

(iii) Each employee shall work in a position or location that is within visual or audible contact with another employee.

(iv) The employer shall account for each employee at the end of each workshift.

(7) **Signaling and signal equipment.** (i) Hand signals or audible contact, such as but not limited to, whistles, horns, or radios, shall be utilized whenever noise, distance, restricted visibility, or other factors prevent clear understanding of normal voice communications between employees.

(ii) Engine noise, such as from a chain saw, is not an acceptable means of signaling. Other locally and regionally recognized signals may be used.

(iii) Only a designated person shall give signals, except in an emergency.

(8) **Overhead electric lines.** (i) Logging operations near overhead electric lines shall be done in accordance with the requirements of 29 CFR 1910.333(c)(3).

(ii) The employer shall notify the power company immediately if a felled tree makes contact with any power line. Each employee shall remain clear of the area until the power company advises that there are no electrical hazards.

(9) **Flammable and combustible liquids.** (i) Flammable and combustible liquids shall be stored, handled, transported, and used in accordance with the requirements of subpart H of Part 1910.

(ii) Flammable and combustible liquids shall not be transported in the driver compartment or in any passenger-occupied area of a machine or vehicle.

(iii) Each machine, vehicle and portable powered tool shall be shut off during fueling.

(iv) Flammable and combustible liquids shall not be used to start fires.

(10) **Explosives and blasting agents.** (i) Explosives and blasting agents shall be stored, handled, transported, and used in accordance with the requirements of subpart H of part 1910.

(ii) Only a designated person shall handle or use explosives and blasting agents.

(iii) Explosives and blasting agents shall not be transported in the driver compartment or in any passenger-occupied area of a machine or vehicle.

(e) **Hand and portable powered tools.**

(1) **General requirements.** (i) The employer shall assure that each hand and portable powered tool, including any tool provided by an employee, is maintained in serviceable condition.

(ii) The employer shall assure that each tool, including any tool provided by an employee, is inspected before initial use during each workshift. At a minimum, the inspection shall include the following:

(A) Handles and guards, to assure that they are sound, tight-fitting, properly shaped, free of splinters and sharp edges, and in place.

(B) Controls, to assure proper function;

(C) Chain-saw chains, to assure proper adjustment;

(D) Chain-saw mufflers, to assure that they are operational and in place;

(E) Chain brakes and nose shielding devices, to assure that they are in place and functioning properly;

(F) Heels of shock, impact-driven and driving tools, to assure that there is no mushrooming;

(G) Cutting edges, to assure that they are sharp and properly shaped; and

(H) All other safety devices, to assure that they are in place and function properly.

(iii) The employer shall assure that each tool is used only for purposes for which it has been designed.

(iv) When the head of any shock, impact-driven or driving tool begins to chip, it shall be repaired or removed from service.

(v) The cutting edge of each tool shall be sharpened in accordance with manufacturer's specifications whenever it becomes dull during the workshift.

(vi) Each tool shall be stored in the provided location when not being used at a work site.

(vii) Racks, boxes, holsters or other means shall be provided, arranged and used for the transportation of tools so that a hazard is not created for any vehicle operator or passenger.

(2) **Chain saws.** (i) Each chain saw placed into initial service after the effective date of this section shall be equipped with a chain brake and shall otherwise meet the requirements of the ANSI B175.1-1991 "Safety Requirements for Gasoline-Powered Chain Saws." Each chain saw placed into service before the effective date of this section shall be equipped with a protective device that minimizes chain-saw kickback. No chain-saw kickback device shall be removed or otherwise disabled. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

Copies may be obtained from the American National Standards Institute, 11 West 42nd Street, New York, NY 10036. Copies may be inspected at the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., room N2625, Washington, DC 20210, or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(ii) Each gasoline-powered chain saw shall be equipped with a continuous pressure throttle control system which will stop the chain when pressure on the throttle is released.

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(iii) The chain saw shall be operated and adjusted in accordance with the manufacturer's instructions.

(iv) The chain saw shall be fueled at least 20 feet (6 m) from any open flame or other source of ignition.

(v) The chain saw shall be started at least 10 feet (3 m) from the fueling area.

(vi) The chain saw shall be started on the ground or where otherwise firmly supported.

(vii) The chain saw shall be started with the chain brake engaged.

(viii) The chain saw shall be held with the thumbs and fingers of both hands encircling the handles during operation unless the employer

demonstrates that a greater hazard is posed by keeping both hands on the chain saw in that particular situation.

(ix) The chain saw operator shall be certain of footing before starting to cut. The chain saw shall not be used in a position or at a distance that could cause the operator to become off-balance, to have insecure footing, or to relinquish a firm grip on the saw.

(x) Prior to felling any tree, the chain saw operator shall clear away brush or other potential obstacles which might interfere with cutting the tree or using the retreat path.

(xi) The chain saw shall not be used to cut directly overhead.

(xii) The chain saw shall be carried in a manner that will prevent operator contact with the cutting chain and muffler.

(xiii) The chain saw shall be shut off or at idle before the feller starts his retreat.

(xiv) The chain saw shall be shut down or the chain brake shall be engaged whenever a saw is carried further than 50 feet (15.2 m). The chain saw shall be shut down or the chain brake shall be engaged when a saw is carried less than 50 feet if conditions such as, but not limited to, the terrain, underbrush and slippery surfaces, may create a hazard for an employee.

(5) Machines. (1) General requirements. (i) The employer shall assure that each machine, including any machine provided by an employee, is maintained in serviceable condition.

(ii) The employer shall assure that each machine, including any machine provided by an employee, is inspected before initial use during each workshift. Defects or damage shall be repaired or the unserviceable machine shall be replaced before work is commenced.

(iii) The employer shall assure that operating and maintenance instructions are available on the machine or in the area where the machine is being operated. Each machine operator and maintenance employee shall comply

with the operating and maintenance instructions.

(2) Machine operation. (i) The machine shall be started and operated only by a designated person.

(ii) Stationary logging machines and their components shall be anchored or otherwise stabilized to prevent movement during operation.

(iii) The rated capacity of any machine shall not be exceeded.

(iv) The machine shall not be operated on any slope which is greater than the maximum slope recommended by the manufacturer.

(v) Before starting or moving any machine, the operator shall determine that no employee is in the path of the machine.

(vi) The machine shall be operated only from the operator's station or as otherwise recommended by the manufacturer.

(vii) The machine shall be operated at such a distance from employees and other machines such that operation will not create a hazard for an employee.

(viii) No employee other than the operator shall ride on any mobile machine unless seating, seat belts and other protection equivalent to that provided for the operator are provided.

(ix) No employee shall ride on any load.

(x) Before any machine is shut down, the machine brake locks or parking brakes shall be applied. Each moving element, such as hub not limited to, such as blades, buckets and shears, shall be grounded.

(xi) After the machine engine is shut down, pressure or stored energy from hydraulic and pneumatic storage devices shall be discharged.

(xii) The rated capacity of any vehicle transporting a machine shall not be exceeded.

(xiii) The machine shall be loaded, secured and unloaded so that it will not create a hazard for any employee.

(3) Protective structures. (i) Each tractor, skidder, swing yarder, log stacker and mechanical falling device, such as tree shears or faller-buncher, placed into initial service after February 9, 1995 shall be equipped with falling object protective structure (FOPS) and/or rollover protective structure (ROPS). The employer shall replace FOPS or ROPS which have been removed from any machine. *Exception:* This requirement does not apply to machines which are capable of 360 degrees rotation.

(ii) ROPS shall be installed, tested, and maintained in accordance with the Society of Automotive Engineers SAE J1040, April 1988, "Performance Criteria for Rollover Protective Structures

(ROPS) for Construction, Earthmoving, Forestry, and Mining Machines." This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, PA 15096. Copies may be inspected at the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, room N2625, Washington, DC 20210, or at the Office of the Federal Register, 800 North Capitol Street NW, suite 700, Washington, DC.

(iii) FOPS shall be installed, tested and maintained in accordance with the Society of Automotive Engineers SAE J231, January 1981, "Minimum Performance Criteria for Falling Object Protective Structures (FOPS)." This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Society of Automotive Engineers, 400 Commonwealth Dr., Warrendale, PA 15096. Copies may be inspected at the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N2825, Washington, DC 20210, or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(iv) ROPS and FOPS shall meet the requirements of the Society of Automotive Engineers SAE J397, April 1988, "Deflection Limiting Volume-ROPS/FOPS Laboratory Evaluation." This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Society of Automotive Engineers, 400

Commonwealth Drive, Warrendale, PA 15096. Copies may be inspected at the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N2625, Washington, DC 20210, or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(v) Each protective structure shall be of a size that does not impede the operator's normal movements.

(vi) The overhead covering of each cab shall be of solid material and shall extend over the entire canopy.

(vii) The lower portion of each cab, up to the top of the instrument panel, or extending 24 (60.9 cm) inches up from the cab floor if the machine does not have an instrument panel, shall be

completely enclosed, except at entrances, with solid material to prevent objects from entering the cab.

(viii) The upper portion of each cab shall be fully enclosed with mesh material with openings no greater than 2 inches (5.08 cm) at its least dimension, or with other materials which the employer demonstrates provides equivalent protection and visibility.

(ix) The enclosure of the upper portion of each cab shall allow maximum visibility.

(x) When transparent material is used to enclose the upper portion of the cab, it shall be made of safety glass or other material that the employer demonstrates provides equivalent protection and visibility.

(xi) Transparent material shall be kept clear to assure operator visibility.

(xii) Transparent material that may create a hazard for the operator, such as but not limited to, cracked, broken or scratched safety glass, shall be replaced.

(xiii) Deflectors shall be installed in front of each cab to deflect whipping saplings and branches. Deflectors shall be located so as not to impede visibility and access to the cab.

(xiv) The height of each cab entrance shall be at least 52 inches (1.3 meters) from the floor of the cab.

(xv) Each machine operated near cable yarding operations shall be equipped with sheds or roofs of sufficient strength to provide protection from breaking lines.

(4) *Overhead guards.* Each forklift shall be equipped with an overhead guard meeting the requirements of the American Society of Mechanical Engineers, ASME B56.6-1992 (with addenda), "Safety Standard for Rough Terrain Forklift Trucks." This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, NY 10017-2392. Copies may be inspected at the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N2625, Washington, DC 20210, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(5) *Machine access.* (i) Machine access systems, meeting the specifications of the Society of Automotive Engineers, SAE J185, June 1988, "Recommended Practice for Access Systems for Off-Road Machines," shall be provided for each

machine where the operator or any other employee must climb onto the machine to enter the cab or to perform maintenance. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, PA 15096. Copies may be inspected at the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N2625, Washington, DC 20210, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(ii) Each machine cab shall have a second means of egress.

(iii) Walking and working surfaces of each machine and machine work station shall have a slip resistant surface to ensure safe footing.

(iv) The walking and working surfaces of each machine shall be kept free of waste, debris and any other material which might result in fire, slipping, or falling.

(6) *Exhaust systems.* (i) The exhaust pipes on each machine shall be located so exhaust gases are directed away from the operator.

(ii) The exhaust pipes on each machine shall be mounted or guarded to protect each employee from accidental contact.

(iii) The exhaust pipes shall be equipped with spark arresters. Engines equipped with turbochargers do not require spark arresters.

(iv) Each machine muffler provided by the manufacturer, or their equivalent, shall be in place at all times the machine is in operation.

(7) *Brakes.* (i) Brakes shall be sufficient to hold each machine and its rated load capacity on the slopes over which it is being operated.

(ii) Each machine shall be equipped with a secondary braking system, such as an emergency brake or a parking brake, which shall be effective in stopping the machine and maintaining parking performance, regardless of the direction of travel or whether the engine is running.

(8) *Guarding.* (i) Each machine shall be equipped with guarding to protect employees from exposed moving elements, such as but not limited to, shafts, pulleys, belts on conveyors, and gears, in accordance with the requirements of subpart O of part 1910.

(ii) Each machine used for debarking, limbing and chipping shall be equipped with guarding to protect employees from flying wood chunks, logs, chips, bark, limbs and other material in

accordance with the requirements of subpart O of part 1910.

(iii) The guarding on each machine shall be in place at all times the machine is in operation.

(g) *Vehicles.* (1) The employer shall assure that each vehicle used to transport any employee off public roads or to perform any logging operation, including any vehicle provided by an employee, is maintained in serviceable condition.

(2) The employer shall assure each vehicle used to transport any employee off public roads or to perform any logging operation, including any vehicle provided by an employee, is inspected before initial use during each workshift. Defects or damage shall be repaired or the unserviceable vehicle shall be replaced before work is commenced.

(3) The employer shall assure that operating and maintenance instructions are available in each vehicle. Each vehicle operator and maintenance employee shall comply with the operating and maintenance instructions.

(4) The employer shall assure that each vehicle operator has a valid operator's license for the class of vehicle being operated.

(5) Mounting steps and handholds shall be provided for each vehicle wherever it is necessary to prevent an employee from being injured when entering or leaving the vehicle.

(6) The seats of each vehicle shall be securely fastened.

(7) The requirements of paragraphs (f)(2)(iii), (f)(2)(iv), (f)(2)(vii), (f)(2)(x), (f)(2)(xii), and (f)(7) of this section shall also apply to each vehicle used to transport any employee off public roads or to perform any logging operation, including any vehicle provided by an employee.

(h) *Tree harvesting.* (1) *General requirements.* (i) Trees shall not be felled in a manner that may create a hazard for an employee, such as but not limited to, striking a rope, cable, power line, or machine.

(ii) The immediate supervisor shall be consulted when unfamiliar or unusually hazardous conditions necessitate the supervisor's approval before cutting is commenced.

(iii) While manual felling is in progress, no yarding machine shall be operated within two tree lengths of trees being manually felled.

(iv) No employee shall approach a feller closer than two tree lengths of trees being felled until the feller has acknowledged that it is safe to do so, unless the employer demonstrates that a team of employees is necessary to manually fell a particular tree.

(v) No employee shall approach a mechanical felling operation closer than two tree lengths of the trees being felled until the machine operator has acknowledged that it is safe to do so.

(vi) Each danger tree shall be felled, removed or avoided. Each danger tree, including lodged trees and snags, shall be felled or removed using mechanical or other techniques that minimize employee exposure before work is commenced in the area of the danger tree. If the danger tree is not felled or removed, it shall be marked and no work shall be conducted within two tree lengths of the danger tree unless the employer demonstrates that a shorter distance will not create a hazard for an employee.

(vii) Each danger tree shall be carefully checked for signs of loose bark, broken branches and limbs or other damage before they are felled or removed. Accessible loose bark and other damage that may create a hazard for an employee shall be removed or held in place before felling or removing the tree.

(viii) Felling on any slope where rolling or sliding of trees or logs is reasonably foreseeable shall be done uphill from, or on the same level as, previously felled trees.

(ix) Domino felling of trees, including danger trees, is prohibited.

(2) *Manual felling.* (i) Before felling is started, the feller shall plan and clear a retreat path. The retreat path shall extend diagonally away from the expected felling line unless the employer demonstrates that such a retreat path poses a greater hazard than an alternate retreat path.

(ii) Before each tree is felled, conditions such as, but not limited to, snow and ice accumulation, the wind, the lean of tree, dead limbs, and the location of other trees, shall be evaluated by the feller and precautions taken so a hazard is not created for an employee.

(iii) Each tree shall be checked for accumulations of snow and ice. Accumulations of snow and ice that may create a hazard for an employee shall be removed before felling is commenced in the area or the area shall be avoided.

(iv) When a spring pole or other tree under stress is cut, no employee other than the feller shall be closer than two tree lengths when the stress is released.

(v) An undercut shall be made in each tree being felled unless the employer demonstrates that felling the particular tree without an undercut will not create a hazard for an employee. The undercut shall be of a size so the tree will not

split and will fall in the intended direction.

(vi) A backcut shall be made in each tree being felled. The backcut shall allow for sufficient hinge wood to guide the tree and prevent it from prematurely slipping or twisting off the stump.

(vii) The backcut shall be above the level of the horizontal cut of the undercut. Exception: The backcut may be at or below the horizontal cut in tree pulling operations.

(3) *Bucking and limbing.* (i) Bucking and limbing on any slope where rolling or sliding of trees or logs is reasonably foreseeable shall be done on the uphill side of each tree, unless the employer demonstrates that it is not feasible to buck or limb on the uphill side.

Whenever bucking or limbing is done from the downhill side, the tree shall be secured with chocks to prevent it from rolling, sliding or swinging.

(ii) Before bucking or limbing wind-thrown trees, precautions shall be taken to prevent the root wad, butt or logs from striking an employee. These precautions include, but are not limited to, chocking or moving the tree to a stable position.

(4) *Chipping (in-woods locations).* (i) Chipper access covers or doors shall not be opened until the drum or disc is at a complete stop.

(ii) Infeed and discharge ports shall be guarded to prevent contact with the disc, knives, or blower blades.

(iii) The chipper shall be shut down and locked out in accordance with the requirements of 29 CFR 1910.147 when an employee performs any servicing or maintenance.

(iv) Detached trailer chippers shall be checked during usage on any slope where rolling or sliding of the chipper is reasonably foreseeable.

(5) *Yarding.* (i) No log shall be moved until each employee is in the clear.

(ii) Each choker shall be hooked and unhooked from the uphill side or end of the log, unless the employer demonstrates that it is not feasible in the particular situation to hook or unhook the choker from the uphill side. Where the choker is hooked or unhooked from the downhill side or end of the log, the log shall be securely chocked to prevent rolling, sliding or swinging.

(iii) Each choker shall be positioned near the end of the log or tree length.

(iv) Each machine shall be positioned during winching so the machine and winch are operated within their design limits.

(v) No yarding line shall not be moved unless the yarder operator has clearly received and understood the signal to do so. When in doubt, the yarder operator shall repeat the signal as it is

understood and wait for a confirming signal before moving any line.

(vi) No load shall exceed the rated capacity of the pallet, trailer, or other carrier.

(vii) Towed equipment, such as but not limited to, skid pans, pallets, arches, and trailers, shall be attached to each machine or vehicle in such a manner as to allow a full 90 degree turn; to prevent overrunning of the towing machine or vehicle; and to ensure that the operator is always in control of the towed equipment.

(viii) The yarding machine or vehicle, including its load, shall be operated with safe clearance from all obstructions.

(ix) Each yarded tree shall be placed in a location that does not create a hazard for an employee and an orderly manner so that the trees are stable before bucking or limbing is commenced.

(6) *Loading and unloading.* (i) The transport vehicle shall be positioned to provide working clearance between the vehicle and the deck.

(ii) Only the loading or unloading machine operator and other personnel the employer demonstrates are essential shall be in the work area during loading and unloading.

(iii) No transport vehicle operator shall remain in the cab during loading and unloading if the logs are carried or moved over the truck cab, unless the employer demonstrates that it is necessary for the operator to do so.

Where the transport vehicle operator remains in the cab, the employer shall provide operator protection, such as but not limited to, reinforcement of the cab.

(iv) Each log shall be placed on a transport vehicle in an orderly manner and tightly secured.

(v) The load shall be positioned to prevent slippage or loss during handling and transport.

(vi) Each stake and chock which is used to trip loads shall be so constructed that the tripping mechanism is activated on the side opposite the release of the load.

(vii) Each tie down shall be left in place over the peak log to secure all logs until the unloading lines or other protection the employer demonstrates is equivalent has been put in place. A stake of sufficient strength to withstand the forces of shifting or moving logs, shall be considered equivalent protection provided that the logs are not loaded higher than the stake.

(viii) Each tie down shall be released only from the side on which the unloading machine operates, except as follows:

(A) When the tie down is released by a remote control device; and

(B) When the employee making the release is protected by racks, stanchions or other protection the employer demonstrates is capable of withstanding the force of the logs.

(7) *Transport.* The transport vehicle operator shall assure that each tie down is tight before transporting the load. While enroute, the operator shall check and tighten the tie downs whenever there is reason to believe that the tie downs have loosened or the load has shifted.

(8) *Storage.* Each deck shall be constructed and located so it is stable and provides each employee with enough room to safely move and work in the area.

(i) *Training.* (1) The employer shall provide training for each employee, including supervisors, at no cost to the employee.

(2) *Frequency.* Training shall be provided as follows:

(i) As soon as possible but not later than the effective date of this section for initial training for each current and new employee;

(ii) Prior to initial assignment for each new employee;

(iii) Whenever the employee is assigned new work tasks, tools, equipment, machines or vehicles; and

(iv) Whenever an employee demonstrates unsafe job performance.

(3) *Content.* At a minimum, training shall consist of the following elements:

(i) Safe performance of assigned work tasks;

(ii) Safe use, operation and maintenance of tools, machines and vehicles the employee uses or operates, including emphasis on understanding and following the manufacturer's operating and maintenance instructions, warnings and precautions;

(iii) Recognition of safety and health hazards associated with the employee's specific work tasks, including the use of measures and work practices to prevent or control those hazards;

(iv) Recognition, prevention and control of other safety and health hazards in the logging industry;

(v) Procedures, practices and requirements of the employer's work site; and

(vi) The requirements of this standard.

(4) Training of an employee due to unsafe job performance, or assignment of new work tasks, tools, equipment, machines, or vehicles, may be limited to those elements in paragraph (i)(3) of this section which are relevant to the circumstances giving rise to the need for training.

(5) *Portability of training.* (i) Each current employee who has received

training in the particular elements specified in paragraph (i)(3) of this section shall not be required to be retrained in those elements.

(ii) Each new employee who has received training in the particular elements specified in paragraph (i)(3) of this section shall not be required to be retrained in those elements prior to initial assignment.

(iii) The employer shall train each current and new employee in those elements for which the employee has not received training.

(iv) The employer is responsible for ensuring that each current and new employee can properly and safely perform the work tasks and operate the tools, equipment, machines, and vehicles used in their job.

(6) Each new employee and each employee who is required to be trained as specified in paragraph (i)(2) of this section, shall work under the close supervision of a designated person until the employee demonstrates to the employer the ability to safely perform their new duties independently.

(7) *First-aid training.* (i) The employer shall assure that each employee, including supervisors, receives or has received first-aid and CPR training meeting at least the requirements specified in Appendix B.

(ii) The employer shall assure that each employee receives first-aid training at least every three years and receives CPR training at least annually.

(iii) The employer shall assure that each employee's first-aid and CPR training and/or certificate of training remain current.

(8) All training shall be conducted by a designated person.

(9) The employer shall assure that all training required by this section is presented in a manner that the employee is able to understand. The employer shall assure that all training materials used are appropriate in content and vocabulary to the educational level, literacy, and language skills of the employees being trained.

(10) *Certification of training.* (i) The employer shall verify compliance with paragraph (i) of this section by preparing a written certification record. The written certification record shall contain the name or other identity of the employee trained, the date(s) of the training, and the signature of the person who conducted the training or the signature of the employer. If the employer relies on training conducted prior to the employee's hiring or completed prior to the effective date of this section, the certification record shall indicate the date the employer

determined the prior training was adequate.

(ii) The most recent training certification shall be maintained.

(11) *Safety and health meetings.* The employer shall hold safety and health meetings as necessary and at least each month for each employee. Safety and health meetings may be conducted individually, in crew meetings, in larger groups, or as part of other staff meetings.

(i) *Effective date.* This section is effective February 9, 1995. All requirements under this section commence on the effective date.

(k) *Appendices.* Appendices A and B of this section are mandatory. The information contained in Appendix C of this section is informational and is not intended to create any additional obligations not otherwise imposed or to detract from existing regulations.

#### Appendix A to § 1910.266—First-aid Kits (Mandatory)

The following is deemed to be the minimally acceptable number and type of first-aid supplies for first-aid kits required for logging work sites under paragraph (d)(2). The contents of the first-aid kit listed should be adequate for small work sites, consisting of approximately two or three employees. When larger operations or multiple operations being conducted at the same location, additional first-aid kits should be provided at the work site or additional quantities of supplies should be included in the first-aid kits.

1. Gauze pads (at least 4" x 4").
2. Two large gauze pads (at least 8" x 10").
3. Box adhesive bandages (band-aids).
4. One package gauze roller bandage at least 2" wide.
5. Two triangular bandages.
6. Wound cleaning agent such as sealed, moistened towelettes.
7. Scissors.
8. Blankets.
9. Tweezers.
10. Adhesive tape.
11. Latex gloves.
12. Resuscitation equipment, such as a resuscitation bag, airway, or pocket mask.
13. Indelible marking pen.
14. Two elastic wraps.
15. Diphenhydramine Hydrochloride elixir or capsules.
16. Tourniquet.
17. Wire splint.
18. Directions for requesting emergency assistance.
19. Recordkeeping forms.

#### Appendix B to § 1910.266—First-aid and CPR Training (Mandatory)

The following is deemed to be the minimal acceptable first-aid and CPR training program for employees engaged in logging activities.

First-aid and CPR training shall be conducted using the conventional methods of training such as lecture, demonstration, practical exercise and examination (both written and practical). The length of training must be sufficient to assure that trainees

understand the concepts of first aid and can demonstrate their ability to perform the various procedures contained in the outline below.

At a minimum, first-aid and CPR training shall consist of the following:

1. The definition of first aid.
2. Legal issues of applying first aid (Good Samaritan Laws).
3. Basic anatomy.
4. Patient assessment and first aid for the following:
  - a. Respiratory arrest.
  - b. Cardiac arrest.
  - c. Hemorrhage.
  - d. Lacerations/abcesses.
  - e. Amputations.

- f. Musculoskeletal injuries.
- g. Shock.
- h. Eye injuries.
- i. Burns.
- j. Loss of consciousness.
- k. Extreme temperature exposure (hypothermia/hyperthermia).
- l. Paralysis.
- m. Poisoning.
- n. Loss of mental functioning (psychosis/hallucinations, etc.). Artificial ventilation.
- o. Drug overdose.
- p. CPR.
- q. Application of dressings and slings.
- r. Treatment of strains, sprains, and fractures.
- s. Immobilization of injured persons.

9. Handling and transporting injured persons.

10. Treatment of bites, stings, or contact with poisonous plants or animals.

**Appendix C to § 1910.266—Comparable ISO Standards (Non-mandatory)**

The following International Labor Organization (ISO) standards are comparable to the corresponding Society of Automotive Engineers (Standards that are referenced in this standard.)

Utilization of the ISO standards in lieu of the corresponding SAE standards should result in a machine that meets the OSHA standard.

SAE standard	ISO standard	Subject
SAE J1040	ISO 3471-1	Performance Criteria for Rollover Protective Structures (ROPS) for Construction, Earthmoving, Forestry and Mining Machines.
SAE J397	ISO 3164	Deflection Limiting Volume—ROPS/FOPS Laboratory Evaluation.
SAE J231	ISO 3449	Minimum Performance Criteria for Falling Object Protective Structures (FOPS).
SAE J386	ISO 6683	Operator Restraint Systems for Off-Road Work Machines.
SAE J185	ISO 2897	Access Systems for Off-Road Machines.

3. The introductory text of paragraph (r)(5) of § 1910.269 is revised to read as follows:

**§ 1910.269 Electrical protective equipment.**

• \* \* \*

**(r) Gasoline-engine power saws.**

Gasoline-engine power saw operations shall meet the requirements of § 1910.266(e) and the following:

• \* \* \*

**PART 1928—[AMENDED]**

**Subpart B—Applicability of Standards**

4. The authority citation for part 1928 continues to read as follows:

Authority: Secs. 4, 6, 8. Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (38 FR 8754), 8-76 (41 FR 25050), 9-83 (46 FR 35736) or 1-90 (55 FR 9033), as applicable; and 29 CFR part 1911.

Section 1928.21 also issued under 5 U.S.C. 553.

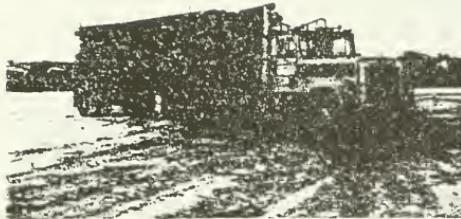
5. Paragraph (a)(3) of § 1928.21 is revised to read as follows:

**§ 1928.21 Applicable Standards in 29 CFR Part 1910.**

(a) \* \* \*

**(3) Logging Operations—§ 1910.266;**

[FR Doc. 94-24898 Filed 10-11-94; 8:45 am]  
BILLING CODE 4510-26-P

**B.L. Cooper Inc.**

Firewood - Logging  
 P.O. Box C 225-3886  
 Boulder, Montana 59632  
 Barton L. Cooper, President

March 7, 1995

United States Senate  
 Senator Conrad Burns  
 Washington D.C. 20510-2603

Re:OSHA Field Hearing - Kalispell, Mt.

Dear Conrad,

I will be unable to attend the Kalispell field hearing so I am writing my concerns pertaining to the OSHA rules about logging:

1. The existing tag out rule, which requires equipment to be brought to "zero energy state" for maintenance or repair is beyond the scope of common sense. I will enclose a copy of the requirements for your inspection. I have called two hydraulic suppliers, two Caterpillar dealers, and one welding supplier and they don't sell the tags. I finally found a supplier in Billings. I would like you to read the tag out rule and then ask yourself this question, How would I like to add this to my list of things to do today, everyday, as long as I stay in the logging business? In some cases it will take longer to legally comply with all requirements of this rule, than to repair or grease the machine. We tell each employee about machine hazards. This rule makes working more complicated, as in snapties , tags, grease pencils etc.

2. Work Boots:

Our company may have up to 5 employees and is basically a mechanized logging company ( all employees operating equipment.) However, from time to time, any one of them may have to use a chain saw to process a tree, big limbs etc. Under this new ruling each employee will have to have special boots to operate a chain saw - It's unbelievable.

3. First Aid Kits:

We have always had good well stocked first aid kits at our job site, and I think that's good, however, to have an annual inspection by a health care provider, is out of line. Common sense tells me if I use something out of the kit, it should be replaced immediately, or it won't be there next time.



## B.L. Cooper Inc.

Firewood - Logging  
 P.O. Box C 225-3886  
 Boulder, Montana 59632  
 Barton L. Cooper, President

### 4. Machines:

The rule that "The machine shall not be operated on any slope which is greater than the maximum slope recommended by the manufacturer". The manufacturer does not have a maximum slope restriction. It's a judgement call by the operator and the employer. Again, common sense, I don't want an employee upsetting our equipment and use every option I can think of to avoid that situation. This rule may give an operator false security.

### 5. Vehicles:

The rule to require employers to inspect any vehicle provided by the employee to verify it meets all safety requirements is out of line. I have enough work to make sure my vehicles meet the test. The employee must take care of the vehicle he owns.

### 6. Danger Trees:

I think this rule says to much. How or why does one remove loose bark from the danger tree before you remove the tree? How do you do it without causing more danger to the employee? This rule makes a violator out of any one that goes near a danger tree.

I will close by saying that we care about our employees. We want them to come to work and we try to provide safe equipment and a safe work place. We train our employees and expect them to develop and use common sense while performing job duties.

OSHA , on the other hand, seems to be trying to protect "everyone from everything". This requirement cannot be met, considering everyday conditions, in the performance of the logging occupation. We hope OSHA will reconsider the logging rules. If they were in our place, running a business that should at least break even at years end, it might help them understand.

Thank you for this opportunity to express my concerns.

Sincerely,

Barton L. Cooper

CC: Senator Max Baucus  
 Representative Pat Williams  
 Montana Logging Association

## TAGOUT ENERGY CONTROL PROCEDURES

This company has implemented an energy control program to reduce the risk of injury to employees from equipment associated with logging. This procedure is to be used to remove unsafe equipment from service and during maintenance of equipment. It is the policy of this company to prevent all possibility of inadvertent equipment activation. The safeguards against accidental activation of machinery, equipment, vehicles, etc., is to incorporate an effective tag out procedure and to insure that the particular equipment is brought to a "ZERO ENERGY STATE".

1. Management staff will instruct all employees and supervisors on proper procedures concerning tag out and zero energy state. These procedures will be reviewed annually and upon initial assignment to the work site. It will be the responsibility of the supervisor to conduct the training and to certify the training. The supervisor shall monitor the work to detect any unsafe practices. This program will be reviewed on an annual basis to determine it's effectiveness and modified as necessary.

Tag will be used versus locks, since equipment is not manufactured with lock out capabilities. It is the position of this company that removal of an ignition key is not an effective lock out.

Tags stating - "**DANGER** DO NOT OPERATE" shall be used by the authorized employee. The tag will be placed at a strategic location (usually the steering wheel or control panel). The tag shall include the employee's name and the date tagged out for a safety defect or maintenance.

Since each piece of equipment, machinery or vehicle may be different in bringing it to a zero energy state, this program will be reviewed to ensure that equipment energy potential is safely controlled.

The following information is intended for general tagout procedures to ensure a zero energy state on all equipment. Specific procedures will be developed and maintained on site for maintenance of the specific equipment.

Before maintenance begins on any piece of equipment, machinery, or vehicles, it shall be tagged out with a proper tag and attached by a nylon wire tie. Keys of all equipment during maintenance will be in the possession of the authorized employee. Prior to returning equipment to service, equipment will be thoroughly inspected by a qualified person. The employee affected by these energy control measures shall be notified by maintenance personnel or immediate supervisor that the equipment is safe to operate. Failure to follow these procedures will result in disciplinary action, which may include immediate termination.

## LOADERS/YARDERS

Booms shall be lowered to the ground or properly blocked. Out riggers will be in the down position. All power systems shut off. The key will be removed and the master switch will be placed in the off position. Machines will have the positive ground cable to the battery removed (*NOTE: While removing and replacing battery cable, proper eye and face protection shall be worn to prevent injury in case of battery explosion*). Hydraulic pressure shall be released after shut down of all moving parts in accordance with manufactures specified procedures, and allowing for a one hour cool down period. Hydraulic pumps shall be shut off by the master clutch or shut off valve. Wheels or tracks will be chocked. Cable machines shall have cables lowered to the ground. Loaders with air systems will be drained before working on equipment in accordance with manufactures specified procedures. Cooling system shall not be worked on without a one hour cool down period.

## CATS & RUBBER TIRE SKIDDERS

In addition to the energy control requirements outlined for loaders/yarders, skidding machines must have blades and booms lowered to the ground or properly blocked.

## WHEEL VEHICLES

The general procedures outlined for energy control requirements for loaders/yarders will be applicable to all wheel vehicles. Manufactures recommendation shall be followed for dissipating all stored energy (hydraulics, air, coolants, etc.).

## NOTICE

Before maintenance begins on any piece of equipment, machinery or vehicles it shall be tagged out with a proper tag and attached by a nylon wire tie. Keys of all equipment during maintenance will be in the possession of the authorized employee. Prior to returning equipment to service, equipment will be thoroughly inspected by a qualified person. The employee affected by these energy control measures shall be notified by maintenance personnel or immediate supervisor that the equipment is safe to operate. Failure to follow these procedures will result in disciplinary action, which may include immediate termination.

When maintenance on equipment is performed, and it is determined that a specific procedure is not written, or that a specific procedure is inadequate, the site supervisor will be notified. The site supervisor will be responsible for developing or modifying procedures prior to work.

## LOGGING EQUIPMENT SPECIFIC TAGOUT PROCEDURE

Specific Tagout Procedure is required for all equipment that fails to have lockout capabilities.

The Purpose and use of this procedure is of deep concern to this company, the safety and well being of all employees engaged in maintenance or preventive maintenance of company logging equipment. Failure to follow the procedures or comply with procedures may result in employee termination.

**NOTE: WEAR EYE AND FACE PROTECTION, GLOVES, ETC., AS NEEDED. MAINTAIN A COPY OF ENERGY CONTROL PROCEDURES ON MAINTENANCE TRUCK AND ALWAYS FOLLOW MANUFACTURERS RECOMMENDATIONS. UPDATE AS NEEDED, AND TRAIN EMPLOYEES ANNUALLY.**

1. EQUIPMENT INVOLVED:

2. TYPE(S) AND MAGNITUDE(S)(S) OF ENERGY AND HAZARDS:

3. NAME(S)/JOB TITLE(S) OF EMPLOYEES AUTHORIZED TO TAGOUT:

4. NAME(S)/JOB TITLE(S) OF AFFECTED EMPLOYEES AND HOT TO NOTIFY:

5. NAME(S)/JOB TITLE(S) OF OTHER EMPLOYEES:

6. TYPE(S) AND LOCATION OF ENERGY ISOLATING MEANS:

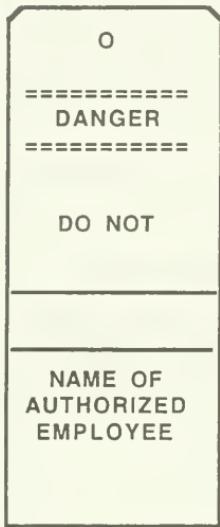
7. TYPE(S) OF STORED ENERGY - METHODS TO DISSIPATE OR RESTRAIN:

8. ADDITIONAL METHOD(S) TO ENSURE THAT TAGOUT PROVIDES ADEQUATE LEVEL OF SAFETY (I.E. REMOVAL OF AN ISOLATING CIRCUIT ELEMENT, BLOCKING OF A CONTROLLING SWITCH, ETC...)

9. NAME(S)/JOB TITLES OF EMPLOYEES AUTHORIZED FOR GROUP TAGOUT (ALL PERSONS INVOLVED IN THIS PROCESS WILL ATTACH TAG(S) ):

10. SPECIAL PRECAUTIONS NOT NOTED ABOVE (I.E., FIRE HAZARDS, CHEMICAL REACTIONS, REQUIRED COOL DOWN PERIODS, ETC.):

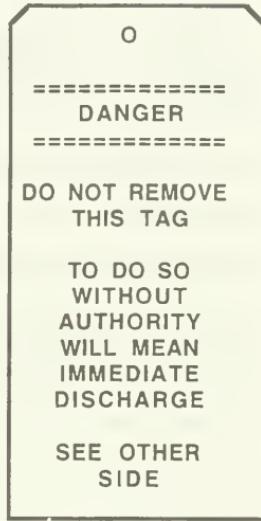
TAGS WILL ALWAYS BE SECURED BY A NYLON SELF LOCKING TIE, WHICH WILL REQUIRE CUTTING THE NYLON SELF LOCKING TIE TO REMOVE.



INSERT ONE OF THE FOLLOWING

← START, OPEN CLOSE ENERGIZE OR OPERATE

← PLACE NAME ON TAG PERMANENTLY



NOTE: OTHER METHODS OF IDENTIFYING LOCKS AND TAGS ARE ACCEPTABLE. THESE OTHER METHODS ARE SPECIFIED IN 29CFR1910.147(c)(5).

**KEY POINTS FOR LOCKOUT/TAGOUT TRAINING PROGRAM****GENERAL RULES**

- Procedures developed, documented and utilized for control of potentially hazardous energy.
- Employer has provided locks, tags, chains, edges, key blocks, adapter pins, self locking fasteners, or other hardware for isolating, securing or blocking machines or equipment.
- Lockout/Tagout devices singularly identified.
- Lockout/Tagout devices are used only for controlling energy.
- Lockout/Tagout devices are not used for other purposes.
- Durable lockout/tagout devices must be capable of withstanding the environment to which they are exposed for the maximum period of time that exposure is expected.
- Standardized lockout/tagout devices must be standardized within each facility in at least color, shape or size.
- For tagout devices, also standardized print and format.
- Must be legible and understandable. (Bi-lingual?)
- Identifiable lockout/tagout devices must indicate the identity of the employee applying the devices.
- When major modifications are made to machinery electrical systems or when new machinery is installed, the energy source must be designed to accept a lockout device.
- Inspection conducted at least annually.
- Performed by authorized employee other than those utilizing energy control procedure under inspection.
- Designed to correct any deviations or inadequacies observed.
- Include review of each authorized employee's responsibilities under the procedure(s). If tagout is used, then include review of limitations of tags.
- Substantial: Tagout devices and means of attachment.
- Sufficient to prevent inadvertent or accidental removal.

- \* Attachment means must be non-reusable type; attached by hand; self locking; non-releasable with minimum unlocking strength no less than 50 pounds; at least equivalent in design and characteristics to one-piece, all environment tolerant nylon cable tie; and if used with electrical must be non-conductive.
- \* Warnings
- \* Warn against hazardous conditions if machine or equipment will be or is energized.
- \* Legend such as "Do Not Start", "Do Not Close", "Do not Energize", "Do Not Operate".
- \* Training: Limits of tags.
- \* Warning devices, not physical restraint.
- \* Do not remove without authorization; never bypass, ignore, or otherwise defeat tag.
- \* Must be legible and understandable.
- \* Tags and means of attachment must be made of materials that will withstand workplace environmental conditions.
- \* May evoke false security; understand meaning.
- \* Securely attached to energy isolating devices.
- \* Application
- \* Clearly indicate that the operation or movement of energy isolating devices from "safe" or "off" position is prohibited.
- \* Attach at the same point that lock would have been attached (if lockout capability exists).
- \* If cannot affix to energy isolating device, then affix as close as safely possible and in an obvious position.

## Statement of Senator Larry Craig

## Senate Committee on Small Business

## Hearing on OSHA Logging Regulations

Senator Burns, thank you for convening this important hearing to review OSHA's new regulations for logging operations. I'm sorry I could not be there in person to make these comments and to hear the presentations of the witnesses, including members of the Idaho logging community.

Frankly, I find it extremely frustrating that we had to have this hearing at all. It is downright unacceptable for government regulators to ignore reality and common sense, as they seem to have done in writing many of these proposals. Americans shouldn't be expected to do the impossible or face sanctions from their government.

That's why the Idaho Congressional delegation called for a delay in the implementation of the regulations — to give the agency another opportunity to find out where the problems are. While I was glad to learn that OSHA had partially granted our request for a delay, that delay will be worthless unless the input provided today is actually considered and acted upon by the agency.

As soon as those new regulations were published, I began to get feedback from my state's logging community that the proposed standards were impossible to meet with existing technology.

Idaho's logging industry was so concerned that it scheduled meetings throughout the state during the month of January, holding nine meetings in communities from Bonners Ferry in the north to St. Anthony in the southeastern part of the state.

Logging safety coordinators from the Associated Logging Contractors and Idaho's Department of Labor & Industrial Services, along with OSHA's compliance officer, traveled the state in an effort to make sure loggers were made aware of the proposed changes. Over and over again, questions were raised regarding those changes and the inability of the industry to comply.

As everyone here knows, this is an industry made up of safety-conscious workers who, over a number of years, have made dramatic reductions in both frequency and severity of accidents each year. Realizing that safety has to be a top priority if they are going to compete AND survive, loggers have continued to exceed these rules in their commitment to safety.

This exemplary record did not happen without great effort. Working with industry and receiving direct input, Idaho has revised the State Logging Code to address the safety problems that are encountered on logging jobs throughout the state.

That brings me to what I believe is the most important message this hearing must send: It is absolutely critical that OSHA work WITH loggers to promulgate regulations that are workable, both physically and technologically.

In the past, OSHA has met with the logging industry. It has taken comments from the industry. Now is the time to LISTEN to the industry.

These safety-conscious workers have practical recommendations, and it is of paramount importance that their concerns be addressed. I hope this message is taken seriously by OSHA and stand ready to do whatever is needed to reinforce that message.



## ASSOCIATED CALIFORNIA LOGGERS

555 CAPITOL MALL, SUITE 745 • SACRAMENTO, CALIFORNIA 95814 • (916) 441-7940 • FAX 441-7942

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#### Secretary-Treasurer

Bunky Leach  
French Gulch  
Executive Director  
Ed Ehlers  
Sacramento

March 11, 1995

The Honorable Conrad Burns  
United States Senate  
Washington DC, 20510

Dear Senator Burns:

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Fort Bragg

Our association of family owned logging and log trucking businesses continues to be concerned that the Federal OSHA Logging Regulations published in the Federal Register on October 12, 1994 and implemented on February 9, 1995 (with the exception of certain but unknown sections who's effective date was delayed six months) will not be adequately corrected to make them workable, particularly in the West. Our long term programs and commitments to safety in logging enabled us to provide lengthy input to the Department of Labor in response to their October 12, 1994 publication. It is disconcerting, however that we have only rumors and second-hand information as to what the Department of Labor has decided relative to these regulations and how they treated our comments and those of others prominent in the logging safety field.

The comprehensive problems we have found in the published regulations and the lack of communication from the Department of Labor cause us to respectfully request that specific actions be taken to be sure that this set of regulations falls under the provisions of the Regulatory Transition Act of 1995 as recently adopted by the House of Representatives and which will be before the Senate shortly.

We ask the following:

1. We're not sufficiently experienced to be able to tell by reading Sections 3, 4, and 5 of the act whether the logging regulation enactment falls under the provisions of the Regulatory Transition Act of 1995. We therefore request that whatever specific changes are necessary be made so it is clear these regulations are subject to the proposed moratorium.

### DIRECTORS EMERITUS

Edward Lewis  
Merle Okerstrom

2. We further request that it be clear that these logging regulations are not included in the exceptions to the moratorium provided in Section 5 which deals with regulations needed because of an eminent threat to health or safety or other emergency. These rules were first published in the Federal Register on May 2, 1989 and the subject of a second publication on May 11, 1990 (setting two public hearing at which "to obtain testimony and other information"). A long silence followed until the October 12, 1994 publication which indicates there is little urgency in the Department of Labor's action and therefore it can not qualify for exemption under Section 5. Such should be made clear in the proposed moratorium legislation.
3. If as we suggest, the Logging Safety Regulations are placed under the moratorium and subjected to the risk analysis and assessment, these procedures need to be more carefully described. Currently HR 450 calls for the assessment and analysis to be done using the "best scientific and economic procedures". This should be changed to require the use of "authoritative" scientific and economic procedures. As we have seen in the Endangered Species Act, the use of the best available science most often results in the use of bogus science.

Our experience in dealing with the Department of Labor since the publication of their proposal in 1989 has been that they are very poor at communicating with their regulated constituency, loth to learn from the experience of reputable people in the field, and as we have seen in their October 12 publication prone to use data that is of little value because of it's age.

It is our hope that by insuring that the logging regulations fall under the moratorium and with the hope that it is passed by the Senate, the Department of Labor will feel compelled to communicate with those of us who are concerned with logging safety and have the experience that can help produce a set of rules that will be useful and productive.

Respectfully,



Ed Ehlers,  
For the Association

Enclosure  
EE/pr



## ASSOCIATED CALIFORNIA LOGGERS

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 Executive Director  
 Ed Ehlers  
 Sacramento

December 30, 1994

Associate Solicitor for Occupational Safety and Health  
 Office of the Solicitor  
 Room S-4004  
 U.S. Department of Labor  
 200 Constitution Avenue NW.  
 Washington DC 20210

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Our association of family owned logging businesses files this petition for review of the proposed revisions to Section 1910.266 (Logging Operations). While your proposed logging safety regulation proposed for implementation on February 9, 1995, are an improvement over the previous May 1989 draft they still contain some technical and other problems that need correction before they are implemented. In some cases the use of language developed in California by the CAL OSHA Standards Board provides a better approach although some of these are also cumbersome and from a practical standpoint unenforceable by the employer. Many can be corrected by limiting the definition of "Vehicle" to those owned by, leased or rented by the employer. We have identified the following items as needing alteration or elimination: (All references are to Section 1910.266 Logging Operations)

1. Your requirements in (d)(ii) requiring that personal protection equipment be inspected before each work shift is impractical and unnecessary. In many cases the employer does not see every employee everyday and therefore to call all employees together or otherwise inspect them before each days work is not only impractical but costly and unlikely to produce any significant results. The provisions of (d)(1) (I) are adequate, given the other requirements of this section which enable the employer to insure the adequacy and performance of personal protective gear on a timely basis. The every work shift requirement should be deleted.
2. We continue our objection to the mandate that employers provide gloves as they have, like the hard hat, traditionally been part of a loggers personal gear. Also the requirements in (d)(1)(iii) requiring the wearing of gloves should be deleted in favor of the language developed in California's Construction Safety Orders which provide recognition that in the handling of

## DIRECTORS EMERITUS

Edward Lewis  
 Merle Okerstrom

cable in some situations the wearing of gloves is a greater hazard than the potential for cuts or other hand damage. The California section is shown below.

**§ 1520. Hand Protection.**

Hand protection shall be required for employees whose work involves unusual and excessive exposure to cuts, burns, harmful physical or chemical agents or radioactive materials which are encountered and capable of causing injury or impairments.

EXCEPTION: Hand protection shall not be required where there is a danger of the hand protection becoming caught in moving machinery or materials.

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code.

3. Subsection (iv) dealing with leg protection should be deleted in favor of the language from California's Logging Safety Orders which permit the use of advanced materials for leg protection and also leave the question of length to that which is suitable and protective for the job being done.

**§ 6283. Portable Chain Saw Operations.**

(a) Employees, such as fallers, buckers, limbers, choppers, landing chasers, and others performing similar operations, who operate chain saws, shall use leg protection (chaps, pads, or inserts).

EXCEPTIONS: 1) High climbers described in Section 6287. 2) Employees, with employer's concurrence, who use a chain saw incidental to their normal assigned tasks.

4. Subsection (v) in some respects is too specific. Requiring water proof or water repellent boots year 'round is largely unworkable considering how summer temperatures produce varying degrees of comfort and discomfort among employees. It is also unlikely that a boot is available that provides any substantial protection from penetration by chainsaws and still lets the employee move about with any degree of comfort or agility. Requiring an employer to demonstrate a need to wear cork boots is a "catch 22" situation when you consider slip/falls vs. twists etc. Perhaps the California language again provides a simpler and more workable requirement. That language is included below and should be used as a substitute for your proposal.

**1517. Foot Protection.**

(a) Appropriate foot protection shall be required for employees exposed to foot injuries, such as hot surfaces, injurious substances, falling objects, crushing or penetrating actions or who are required to work in abnormally wet locations.

(b) Footwear which is defective or inappropriate to the extent that its ordinary use creates the possibility of foot injuries shall not be worn.

(c) Safety-toe footwear for employees shall meet the requirements and specifications in ANSI Z41.1-1967, Men's Safety-Toe Footwear.

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code.

5. Your requirement in Subsection (vii) that the employer provide hard hats is contrary to long standing tradition in California. The transient nature of much of our work force makes this impractical and costly. Used hard hats would be of little value and likely have to be discarded because of the cost of washing and replacing the suspension system to meet a reasonable health requirement. This requirement further reduces the employee's existing commitment to his profession.
6. (d)(2)(I)-(iii) needs adjustment because of your broad definition of "vehicle" which includes private employee vehicles. It will be virtually impossible for the employer to insure that an employee's vehicle which he may use to come to a job site, has a satisfactory first-aid kit at all times without a large and continuing cost outlay to replace lost, stolen, or misused first-aid kits. This requirement as it regards employee vehicles should be deleted.

The requirement that a first-aid kit be at each landing also needs to be modified to provide that the requirement only applies to "active" landings.
7. Your requirement that first-aid kits be reviewed and approved at least annually by a "health care provider" is an impossible requirement. For all family-owned logging operations the requirement that the kits be available and serviceable is adequate and requiring the use of a health care provider (whoever that is) is unnecessary, costly and impractical. The requirement should be deleted.
8. Subsection (3)(iii) should be deleted. There are too many occasions when an employee must loosen his seat belt in order to operate his equipment safely. An example is a skidder operator who must loosen his belt in order to look to the rear when backing to be sure all crew members are clear. Likewise it may be necessary to loosen the belt where jill-poking is a threat. It is unreasonable to expect that the employer should be required to enforce such a questionable requirement. It should be deleted.
9. Your requirement for fire extinguishes is likewise faulty because of your broad definition of "vehicle". The vehicle definition should be qualified so as to provide that these various rules only apply to employer owned, rented or leased vehicles.
10. Without a definition of "work area" your Subsection (6)(ii) is unnecessarily restrictive. Fallers working in adjacent cutting units could be in audible contact but away from each other at such a distance that falling trees on one another is impossible but one of the units would have to be abandoned (as a work area) because it is within two tree lengths of the other unit. It appears that Subsection (I) covers the exposure reduction you're trying to achieve and Subsection (ii) only complicates it by describing only a couple of the infinite number of variables that occur in the woods and require adjustments for a safe operation. Subsection (ii) should be deleted to permit this section to function. Also, Subsection (iii) should be amended to recognize that some vehicle and machine operators need not always be in "visual or audible contact with another employee".

10. Section (e)(1)(I) must be amended to delete the words "including any tool provided by an employee". As we noted earlier in the section dealing with personal protective equipment the employer does not always see every employee every day or at the beginning of every work day and it is therefore impossible for him to assure the serviceability of hand or portable power tools that the employee may bring to the job site. The approach you propose only causes grief by requiring the employer to do that which is impossible for him to do in a sufficient number of cases to have any more effect than if he emphasizes it in his normal safety meetings (that personal equipment must meet the same standard imposed on his by the regulations).

It is a particularly impossible situation in the way you describe his inspection responsibilities with regard to the equipment used by falling crews. We would suggest that instead of your Subsection (e) that your substitute the California language from Section 6263 of the Logging and Sawmill Safety orders which is printed below.

**6263. Hand Tools.**

(a) The employers shall be responsible for the safe condition of their tools. All tools shall be restricted to the use for which they are intended, and should be used only by employees who are required and qualified to use such tools.

(b) Periodic inspections shall be made to ensure all tools are in safe condition. Tools with defective handles shall be immediately repaired or removed from the job.

(c) Battered, laminated, or crystallized iron wedges, chisels, punches, hammers, and similar equipment, mushroomed more than  $\frac{1}{4}$ -inch from the body of the tool, shall be replaced or properly repaired.

(d) Exceptionally hard hammers, wedges, and similar tools shall not be used.

(e) Only one end of a peeling bar shall have a cutting edge. The other end shall be cut off square with the length of the bar or have a rounded end.

(f) Cutting torch, impact, or hydraulic cable cutters shall be provided and used for cutting cables. Soft hammers and wire axes may be used in emergencies.

(g) Marlinspikes or needles in good condition and large enough for the size of the line being spliced shall be used.

(h) Cutting tools shall be kept sharp and properly shaped.

(i) Hand tools shall be sheathed or boxed if transported with passengers in the passenger compartment of a vehicle. If not contained in a box, the sheathed tools shall be fastened to the vehicle.

(j) Proper storage facilities shall be provided for hand tools.

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code.

11. Subsection (e)(2) dealing with chainsaws needs some adjustment. To specify the equipping of a saw "with a protective device" needs elaboration. Do you mean a "banana bar", a specific chain or the tip cover found on light duty saws? In Subsection (2)(I) we question the requirement for the installation of a kick-back device on those saws that pre-date your regulations and are currently in service. Which devices are acceptable and must the saw be discarded if it

back protection is also a method of operation. The California section states "use proper methods to avoid kick-back."

Your Subsection (xiv) is apparently designed for southern plantations and does not fit the practicality of logging in California. Again, we would suggest that the California language contained in Section 6283 (d) sets a more practical standard and says it more simply.

**§ 6283. Portable Chain Saw Operations.**

(a) Employees, such as fallers, buckers, limbers, choppers, landing chasers, and others performing similar operations, who operate chain saws, shall use leg protection (chaps, pads, or inserts).

EXCEPTIONS: 1) High climbers described in Section 6287. 2) Employees, with employer's concurrence, who use a chain saw incidental to their normal assigned tasks.

(b) Chain saws shall be stopped and employees shall use the escape path when the tree starts to fall.

(c) All chain saws shall be equipped with a control that when released returns the saw to idling speed.

(d) Power saw motors shall be stopped when carried for a distance greater than from tree to tree, not to exceed 100 feet, or in hazardous conditions such as slippery surfaces or heavy underbrush. The saw shall be at idle speed when carried short distances.

(e) Exhaust manifolds on gasoline motors shall be constructed and maintained so that exhaust fumes are directed away from the operator.

(f) Power saws shall be equipped with a clutch so adjusted that at idling speed it will not engage the chain drive.

(g) Loose material that may catch the saw shall be removed.

(h) All power saws shall be equipped with a positive off-and-on switch.

(i) Power cables on electric units shall be properly insulated. Care shall be taken to see that cables are in the clear at all times.

(j) Electric saw and generator units shall be bonded together and grounded.

(k) The cable on electric units shall be disconnected while moving the saw through brush and thickets, or where the character of the ground obstructs the free movement of the fallers.

(l) Every employer shall instruct and enforce a safe practice procedure including the rules listed below:

(1) Inspect the saw daily to assure that all handles and guards are in place and tight, all controls function properly, and the muffler is operative.

(2) Properly instruct operators on safe operation and adjustment.

(3) Always keep a firm grip on the saw.

(4) Fuel the saw only in conditions not conducive to fire hazards.

(5) Start the saw at least 10 feet away from fueling area.

(6) Start the saw only when firmly supported.

(7) Do not use engine fuel for starting fires or as a cleaning solvent.

(8) Use proper methods to avoid kickbacks.

NOTE: Authority cited: Section 1423, Labor Code. Reference: Section 1423, Labor Code.

12. A couple of changes are needed in you Subsection (f) relating to machines. Your requirement that operating and maintenance instructions be available on the machine or in the area where the machine is being operated (Subsection (f)(I) (iii)) is impractical and unnecessary. These reference materials are often extensive and are usually kept in the shop area. The availability of radio or telephone communication makes their casual use readily available and should in- depth reference be required a mechanic will bring them with him. To have to make a copy and maintain it's quality at the job site is not a constructive use of assets. The requirement should be eliminated.
13. Subsection(f)(2)(iv) should be eliminated and replaced with a general statement in the first subsection to require that machines be operated in a safe manner. Because the manufacturer will be unduly influenced by his legal counsel to avoid liability, slope recommendations from the manufacturer will likely be unrealistic. Our suggested general language would leave this decision to the employer and his experienced operator with the employer accountable.
14. Your Subsection (3) dealing with protective structures contains a safety conflict in Subsection (vii) by requiring the lower portion of the cab to be enclosed with a solid material to prevent objects from entering the cab. The trade-off is that you give up some degree of operator visibility to the "in-close" area. Perhaps manufacturers should have the option of using screening in these locations as a compromise.
15. A significant change is needed in your Subsection (g) dealing with vehicles. The Department of Motor Vehicles, the California Highway Patrol, and other police agencies regulate and enforce the standards for vehicles operated in California. The employer should not be responsible for duplicating their work when it applies to the private vehicle of an employee. It's operation on a public road to reach the work site (even though part of the trip may include private or Forest Service roads) should be *prima facie* evidence that the employer need not be held responsible for it's contents, condition, and compliance with the vehicle laws of California. Having said this, we have no difficulty with applying the standards you proposed to the vehicles owned, rented or leased by the employer and used for the transportation of crewmen in support of logging operations. Employer responsibility for employee vehicles should be stricken unless they are rented or leased by the employer for uses related to the logging operation.
16. Subsection (h) dealing with tree harvesting almost uniformly requires the separation of various activities by two tree lengths even though the physical circumstances may permit closer activities because of the lay of the land or shelter and protection that is otherwise available. If you are to maintain the two tree length measure then qualifying language should be inserted such as "unless a lesser distance is determined to be adequate by the faller, the operator of a mechanical faller, and the immediate supervisor (who may also be the employer)". In the West two tree lengths is not always necessary to achieving a safe operation.

17. Your Subsection on manual falling (2)(vii) is contrary to what California has in it's regulations determined to be safe and workable. Particularly, Section 6279 reproduced below, indicates that the back cut shall always be started at or above the level of the horizontal cut of the undercut. This standard should be substituted for the one you propose which permits a level cut only in pulling operations.

**6279. Falling Cuts.**

- (a) Undercuts shall be of a size to guide the trees in the intended direction and minimize the possibility of splitting.
- (b) In trees of sound wood and no perceptible lean, the undercut shall be no less than  $\frac{1}{4}$  the diameter of the tree and the face opening shall be no less than  $\frac{1}{2}$  the diameter of the tree.
- (c) The backcut shall always be started at or above the level of the horizontal cut of the undercut.
- (d) Trees shall not be left standing after the undercut is made under normal conditions.

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code.

18. Your Subsection (5) dealing with yarding and particularly Subsection (ii) needs some qualifying language to facilitate choker setting on the down hill end of the log when it is safe to do so and chocking is not necessary. We suggest adding to the end of the paragraph the words; "or that the log is lying so securely that it's rolling or sliding can not be reasonably expected".

19. A small change is needed in Subsection (6)(ii) dealing with loading and unloading to provide for a more restricted definition of the safety area around loading and unloading operations. Your term "work area" should be changed to "loading area" so that, for instance, other work on a landing that is not influenced by the loading operation would not be effected by the restriction.

20. Your Subsection (7)(I) requiring every employee to be first-aid trained is an unnecessary burden which is magnified by the transient nature of our work force. Again in California, the first-aid training requirements have worked well and are provided in Section 6251 (d) of the Logging and Sawmill Safety Orders which is printed below. This provides for the training of supervisory personnel and one in five employees. This has proven to insure that a trained person is reasonably available in the event of an emergency. We ask that you change this section to conform to that which has been developed here in California.

**6251. First Aid.**

- (a) First-aid material shall be provided and personnel made available for care of injured employees. Means of communication shall be established, and the names, addresses, and the telephone numbers of physicians, hospitals, and ambulances to be called shall be made readily available at all operations.
- (b) All necessary first-aid materials shall be provided at every camp, mill, log landing, or other active operation as may be necessary, and shall consist in part of a rigid stretcher, 2 acceptable blankets (1 blanket for warmth and 1 water-proof blanket), and a first-aid kit. The blankets and the contents of the first-aid kit shall be kept in dustproof and moisture proof containers.
- (c) Crew vehicles shall carry a first-aid kit. First-aid kits shall be kept fully supplied.

(d) First-aid training shall be provided as follows:

(1) Those in charge of work shall be required to have general knowledge concerning the stoppage of bleeding, care and splinting of fractures, dressing of wounds, and treatment of shock and shall be trained in cardiopulmonary resuscitation (CPR). Standards for CPR training shall follow the principles of the American Heart Association or the American Red Cross.

(2) At operations employing 5 or more employees, employers shall arrange to have employees trained so they have a valid first-aid certificate issued by the Red Cross, the Mine Safety and Health Administration, or other recognized agency.

NOTE: Approximately 1 out of every 5 employees should receive this training. In computing the number of employees for (d) (2), clerical workers need not be included.

While we expect your proposal will have significant impacts in other parts of the United States we think that the steady improvement made in California to reduce not only the frequency but the severity of injuries makes California's efforts worthy of your consideration in your effort to produce a workable set of logging regulations. In ACL's safety program we have been pleased with the success we have achieved, but have had continuing difficulty with proposals that generate more nuisance than progress in the quest for safer logging. We hope you will accommodate the changes we have outlined in this letter and consider how California's language can be used to help get the job done without further burdening employers in a business where profits are already hard to come by and survival is a day-to-day occupation.

It's unfortunate that the data you had available to support your proposal is so old that it does not reflect the tremendous strides that have been made in logging safety. We hope that the next round of data development will be more timely and therefor will reflect the results strived for by ACL and others concerned with logging safety.

Respectfully,



Ed Ehlert,  
For The Association



## F.H. STOLTZE LAND & LUMBER CO.

### **Lumber Manufacturers**

Box 1429 • COLUMBIA FALLS, MONTANA 59912  
PHONE (406) 892-3252 • FAX (406) 892-1612

March 10, 1995

Senator Conrad Burns  
SD-183 Dirksen Office Bldg.  
Washington, D C. 20510-2603

Dear Senator Burns:

This letter is in response to the new OSHA Logging Standards (1910.266). I've listed the areas that need further consideration or revision for these rules to be most effective in the woods.

#### (D) General Requirements

##### (1) PPE

- (v) Footwear: Use of kevlar, steel toed boots (all that is available) in this region is not necessary. Varying conditions such as cold, extreme heat (fire fighting) and steep terrain make these boots uncomfortable and dangerous. Most boot manufacturers are not prepared to offer kevlar boots by the effective date.
- (vii) Eye and Face Protection: Screens pose a problem by reducing peripheral vision and increased glare. Timber fallers need the flexibility to leave the screen up when maximum visibility is essential.

##### (2) First Aid Kits

- (i) Location: According to our local OSHA Rep. this means timber fallers will be required to have a 3 person kit in the brush with them. This unnecessarily requires the faller to pack more gear with him each day. Perhaps all fallers should have a smaller personal type kit with their gear as well as the larger kit at the rig.
- (iii) Annual Review: Unnecessary and impractical

## (3) Seatbelts

Already covered by State law. Should apply to only those vehicles owned, rented or leased by the employer.

## (E) Hand and Portable Power Tools

(1) (ii) This is not practical in many instances as employees may not be working on the same site or unit as the employer or foreman.

## (F) Machines

(1) (iii) Operating and maintenance instructions on site. This is impractical as these materials are extensive and not easily kept in a readable condition under working conditions. It would be much better to ask each employee to review annually and sign off that they have done so.

(2) (iv) Maximum slope: This is not printed by many manufacturers or will be unrealistic as it exposes them to liability. The maximum slope will vary by machine, operator experience and ground conditions. This is a decision that is and should be made by the operator.

(3) (i) Will the initial service date of August 9 apply to this entire section 3 (I) - (xv)? Local OSHA Reps have given mixed signals on this, suggesting it applies only thru (iv).

(3) (vii) This will require extensive design to properly enclose the lower portion of cab. This may also necessitate welding tabs on the ROPS canopy which will severely devalue the machine for re-sale as this may decertify the ROPS canopy. There needs to be the alternative to screens rather than solid material below the dash to allow optimum operator visibility.

(viii) Need clarification, this paragraph does not exempt entrances from enclosure.

## G. Vehicles

(1) It is not reasonable for employers to be held accountable for employee vehicles that are not owned, rented or leased.

## II Tree Harvesting

(1) (iv) Danger Trees: Falling a tree into a lodged tree in most cases is the safest maneuver to remove the hung tree, particularly on line skidding units. In this situation there is no other practical means to remove the hazard besides hooking the danger tree when the set is yarded. This creates several problems:

1. Leaves island of timber that cannot be felled within 2 tree lengths of the hazard tree.
2. Cannot skid felled timber on adjacent trails within 2 tree lengths of the hazard tree
3. Exposure to the hazard is increased by increasing the number of people involved in working around and on removing the hanger.
4. The rule will cause more danger tree situations in and of itself.

The rule as written defies logic and does more harm than good.

2. (vi) A properly installed face and back cut is critical to safely and productively fall timber. Hinge wood is important to this process until the tree has fallen half way to its intended lay. Beyond this point hinge wood is no longer aiding the tree to its pre-determined path. Our operations involve primarily selective and commercial thinning logging jobs in dense timber stands. In many cases it is by necessity that the hinge wood is cut out to allow a tree to "roll out" and thereby reduce the number of lodged trees. This is important in the fact that fewer lodged trees means decreased exposure to their inherent hazards

6. (ii) Clarify "work area" to apply only to the loading area. This will allow other work to continue in the area that is not influenced by the loading/unloading process.

Appendix A - First Aid Kits. The requirement of a tourniquet should be removed from the kit. First Aid courses have not taught or recommended their use for several years. There are many alternatives should one be necessary such as a triangular bandage.

Many of the rules go too far beyond common sense and safe operating procedures. They also ignore the fact that you are trying to over regulate people that are professionals at what they do. They do not recognize the progress made on safety issues in recent years. We would suggest that

you form an advisory group of OSHA Representatives, State safety people, Montana Logging Association and several logging contractors to help with streamlining your rules so that they truly do protect the worker.

The industry hopes that with the comments received, the rules can be clarified to account for the realities of working in the woods and yet provide a safe working environment.

Thanks for your help in this matter. Please enter these comments into the record.

Sincerely,  
*Scott Klosner*  
Forester

Hon Conrad Burns  
United States Senator

I would like to compare two concepts how best to deal with job safety pertaining to logging, in particular, and other industries as well.

OSHA seems to wait until an accident occurs, then comes down like a flock of vultures, inflicting more pain and suffering, in the form of fines and penalties. Maybe a warning sign is not placed just so, or perhaps a stump is not pretty enough to suit their fancy. In their spare time "and they apparently have much of that," they hire a flock of dudes to figure out regulations and rules to make a tough job even tougher and more dangerous.

On the other hand, we have our Montana Loggers Association. The people they send out in the field have always been people who know something about what it takes to make a logging show work. They even appear before an accident occurs with suggestions about how maybe, to prevent one. I hope they feel welcome on my job.

I guess my point is, MLA working with the logging contractors for safer working conditions will do more for safety in a week, than a high handed federal agency as OSHA will ever do. If I could cause the amount of my taxes that go to finance this agency to go to MLA I would do it in a heartbeat. Perhaps we could all work together then for safer working conditions, instead of wasting our time and money trying to comply with stupid mandates from Washington D.C.

There will be accidents, but if we all work for safety we will prevent many of them. I think our representatives in Washington should take a hard look at the methods, and attitudes of agencies like OSHA.

Thomas J. Flatt  
Logging Contractor



## INTERMOUNTAIN FOREST INDUSTRY ASSOCIATION STATEMENT ON OSHA LOGGING RULES

Senator Burns, members of the committee:

Intermountain Forest Industry Association represents forest products businesses and forest landowners in the inland West including, Montana, Idaho, Utah, Wyoming, Colorado, and South Dakota. Our member companies' operations are directly and substantially impacted by OSHA's recent logging regulations.

IFIA is a strong advocate for improving logging safety. However, OSHA's recent logging regulations have significant shortcomings. Some measures appear to create regulations with no practical benefit (doctor approved first aid kits). Other regulations are impossible to implement (chainsaw resistant logging boots). Still other measures are so ambiguous (danger trees) that they significantly limit both forest management opportunities and safety options. Safety regulations must be practical, responsive to actual problems, and clearly defined. If these criteria are not met, the regulations should be modified or discarded.

We urge OSHA to listen carefully to the recommendations of professional loggers. Organizations like the Montana Logging Association and Associated Logging Contractors have developed comprehensive safety programs that have significantly improved working conditions for loggers. Despite these accomplishments, we understand OSHA has ignored the advice from safety professionals in these organizations. This "We know best" attitude must be immediately discarded. Partnerships between regulatory agencies like OSHA and professional loggers provide the only avenue to develop safer conditions for woodworkers.

We are especially concerned about the regulations regarding "danger trees". As currently written these regulations directly conflict with National Forest Management Act regulations for maintaining viable wildlife populations. Furthermore, danger tree regulations force federal, state, and private forest managers to either mechanically harvest all dead and dying trees or leave all these trees to either rot or fuel future fires. Danger trees must be clearly defined to prevent these severe forest management limitations and legal conflicts. Fortunately, this issue has been resolved in Montana and Idaho by a coalition that included the Forest Service, Montana Logging Association, IFIA, Associated Logging Contractors, and Idaho's Department of Labor. We have developed practical guidelines for determining the relative risks of harvesting dead, dying, and damaged trees. We urge OSHA to incorporate these guidelines into the revised safety regulations.

We believe Congress provided OSHA an outstanding opportunity to develop safety regulations that make sense during the 6-month stay period. Please insure this opportunity is realized by encouraging OSHA to form safety partnerships with professional loggers.



COLUMBIA HELICOPTERS, INC.

March 23, 1995

The Honorable Conrad Burns  
183 Dirksen  
Senate Building  
Washington, DC 20510

Dear Senator Burns:

Columbia Helicopters, Inc. (herein "CHI"), P.O. Box 3500, Portland, Oregon 97208, requests that the following testimony to be documented and entered into the official record of the US Senate Committee on Small Business Field Hearing on the Final Ruling, 29 CFR Parts 1910 and 1928 Logging Operations.

We thank you for this opportunity to file this petition for review of the Final Rule and its impact on the logging industry. Although only a total of 12 stays were granted by Federal OSHA, there are many areas of the Standard that remain a regulatory extreme imposing unnecessary burdens on employers. CHI believes that some of these rules will pose a greater hazard to workers if enforced, while several are impossible to comply with at this time.

Logging methods, timber types, variations of terrain and soils, equipment and weather conditions all vary from forest to forest, State to State. State OSHA's have their own logging codes, including Federal regulated States such as Montana and Idaho, that regulate their own unique safety situations. It is unknown why Federal OSHA would try to regulate logging from the East Coast to the West Coast with the same rules and regulations.

For years various State logging associations have worked vigorously promoting safety and safe work places and continue to develop codes that are not unduly burdensome, more realistic and less confusing than the Final Ruling.

Several regulations that raise concerns as far as interpretation and how it relates to our helilogging operations are listed below.

1. 1910.266(c) Definitions application to this section.

"Machine. A piece of stationary or mobile equipment having a self-contained powerplant, that is operated off-road and used for the movement of material. Machines include but are not limited to tractors, skidders, front-end loaders, scrapers,

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graders, bulldozers, swing yarders, log stackers and mechanical felling devices, such as tree shears and feller-bunchers."

Helicopters are a major part of our logging operation. According to the above definition, a helicopter could easily be defined as a stationary or mobile piece of equipment that has self-contained powerplant, that is operated off-road and used for the movement of material. Therefore the definition could be interpreted to include a helicopter as a "machine." Is it OSHA's intent to include a logging helicopter in the definition of a machine as it presently includes tractors, skidders, etc.? If that is the case, it brings up some inconsistencies with Oregon, Washington and Alaska logging codes. If it is determined that a "helicopter" is interpreted as a "machine," then the following issue also becomes of concern to us:

A. Under 1910.266 (d) (iii) Flammable and combustible liquids, it states:

"Each machine, vehicle and portable powered tool shall be shut off during fueling."

Under Oregon Administrative Rules 437, Division 6, Forest Activities, 437-06-427(3), "Helicopters using Jet A (turbine kerosene) type fuel may be refueled with engines running provided the following criteria are met:

- (a) No unauthorized employees shall be allowed within fifty (50) feet of the refueling operation or fueling equipment; and
- (b) Fire extinguishers shall be strategically located in the fueling area and shall have a combined rating of at least 16A:160BC."

In addition, Washington Safety Standards-Logging Operations, Chapter 296-54-559(36), and Alaska Occupational Safety and Health Standards/Logging, Chapter 07.175(g)(3), both allow helicopters using Jet A (turbine kerosene) type fuel to be refueled while engines are running, with similar criteria as indicated in (a) and (b) above.

Furthermore, Columbia Helicopters, Inc.'s Air Carrier Operations Manual, approved by Dale Morris, NM-FSDO-09, FAA inspector on 5/19/93, also allows for refueling with Jet A fuel while engines are running.

Based on Oregon's and Washington's criteria on refueling, it is presumable that the intent of 1910.266(c) would not include a

helicopter, however, a clarification of Item I is greatly needed to eliminate any doubt.

To illustrate the lack of simplified interpretations and lack of understanding in this regulation, the following rule could easily be implied that prior to the end of a shift before shutting off the helicopter, we would need to fly it upside down, set the brakes and put the blades to the ground.

1910.266(f)(2) Machine Operation (x) Before any machine is shut down, the machine brake locks or parking brakes shall be applied. Each moving element, such as but not limited to, such as blades, buckets and shears, shall be grounded.

We know this is not the intent of the regulation, but it is just one of many examples of the interpretation problems with the Final Ruling.

2. 1910.266(d) General requirements. (1) Personal protective equipment, Sections (iii), (iv), (vi) and (vii).

CHI feels that it is the employers responsibilities to make sure that the employee has proper safety equipment and that it is worn. However, employers should not be required to furnish this equipment at no cost to the employee anymore than being required to provide the other tools of the professional logger. PPE has traditionally been part of a logger's personal gear. Used gloves and hard hats would be of little value and likely have to be discarded because of the cost of washing and replacing the suspension system to meet a reasonable health requirement. The transient nature of much of our work force, along with crew member transfers, makes this impractical, hard to track equipment and costly. Employees should be compensated for their equipment through a wage structure.

3. 1910.266(d) General Requirements (2)(ii) First Aid Kits - Item 16 in Appendix A.

CHI is in disagreement with this item. We have been involved with teaching first aid/CPR through the American Red Cross and EMP America, Medic First Aid since 1977. In 1989, techniques for applying tourniquets were discontinued by ARC under the recommendation of the American Academy of Orthopedic Surgeons. Prior to 1989, tourniquets were taught to be used only as a last resort, to sacrifice a limb for a life. They are rarely applied correctly, which causes a greater risk of tissue damage and internal injuries than there was benefit to the patient. It is discomforting to learn that OSHA would have industry place a tourniquet in a first aid kit when they are considered more dangerous than beneficial along with the fact that people are not trained for tourniquet use anymore. A tourniquet in a first aid kit would only encourage its use.

4. 1910.266(d) General Requirements (2) First Aid Kits (ii) -  
Item 12 in Appendix A.

Resuscitation bags and airways are not taught in first aid classes and would exceed the card authority causing liability problems for the employer and first aid responder.

5. 1910.266(d) General Requirements (2) First Aid Kits (iii).

If OSHA is telling industry what the contents of a first aid kit must contain then why should they be reviewed and approved at least annually by a health care provider?

6. 1910.266(d) General Requirements (3) Seat Belts, Sections (i), (ii), (iii).

State laws already require seat belts to be provided and worn by the driver and any passengers in a motor vehicle. Making the employer responsible for the personal vehicles used by employees simply as a means of transportation to and from work is unrealistic. CHI has no more right to control an employee's personal vehicle than does OSHA or any other employer. Seat belts, drivers licenses, etc., should be left to appropriate city, county and state law enforcement agencies.

7. 1910.266(d) General Requirements (9) Flammable and Combustible liquids, Section (i).

Requiring flammable and combustible liquids to be transported in accordance with the requirements of subpart H of Part 1910 will have fiscal impact not noted by OSHA in the October 12, 1994 Federal Register. OSHA approved gas cans range from \$40.00 per one gallon can up to \$175.00 for five gallon containers. The containers currently being used by loggers do not appear to be contributing to logging accidents. According to OSHA, burns, or chemical reactions do not pose a significant risk to loggers. This requirement should be deleted because the high cost of compliance is not supported by any data associating combustible liquids at a logging operation to any logging injuries, and because the record does not indicate a significant risk to loggers.

Section (ii). OSHA has not produced in the record any evidence that this rule is needed. Burns from fire, or combustible liquids used to start those fires do not represent a significant risk in the logging industry. The rule itself betrays OSHA's knowledge of reality of starting a fire in the Pacific Northwest during much of the year. This rule amounts to a regulatory extreme and should be eliminated completely.

8. 1910.266(e)(2) Chain saws, Section (iv).

CHI does not oppose any rule that may prevent a worker from getting burned by fire. It appears OSHA is overestimating the risk from this threat. There are two problems that exist with a rule that requires employees to be 20' from an open flame or ignition source when they refuel a chain saw. First is the lack of evidence of a substantial risk in the record. Secondly, 20' from a warming fire in the dead of winter may place a landing chaser attempting to comply with such a rule in danger, or violation of several other rules. This rule should be eliminated as a regulatory extreme.

Section (v). That a chain saw shall be started at least 10' from the refueling area is a regulatory extreme and should be eliminated.

Section (vi). OSHA does not elaborate on page 51712 of the October 12, 1994, Federal Register what "otherwise firmly supported" is. The American Pulpwood Association in a recent publication "interprets (6) and (7) to permit starting a chain saw with the rear handle firmly gripped between the legs, the front hand firmly gripped with the arm straight and locked at the elbow, and the chain brake engaged". CHI does not feel this is an acceptable method of starting a chain saw.

CHI feels that chain saw operators should be permitted to hold the saw firmly in one hand from an upright stance. With the saw firmly held, with the chain brake engaged, the bar can be rested securely on a log or other stationary item while the starting rope is pulled. This is not "drop starting" a saw, which CHI agrees is an unsafe work practice. This method helps lessen the strain on the back and other muscles by allowing the chain saw user to stand erect while starting the saw. Some woods workers may start a chain saw dozens of times during a day. They should be encouraged to start the chain saw in a way that does not require them to bend completely over, or jerk their muscles as when drop starting a saw. Table 6 on page 51676 of the October 12, 1994 Federal Register indicates a significant number of logging injuries are the result of muscle strains. Although the record shows far too many workers being cut by chain saws, the record does not specify if the workers were attempting to start a chain saw when the accident occurred. CHI believes that loggers in the Northwest generally start chain saws in the manner described above. CHI reports no known mishaps or injuries while workers were attempting to start a chain saw in this manner. The rule should be amended to clarify what "otherwise firmly supported" means, taking the above comments into account.

9. 1910.266 (f) Machines. (6) Exhaust Systems, Section (iii).  
The need for spark arresters is clearly defined in every state fire code. This item should be left to the state fire marshall and

other agencies that govern fire equipment. Due to the fact that this is not an employee safety issue, it should be deleted from the rule as it is over regulation.

10. 1910.266 (g) Vehicles (1).

Employers have no control over vehicles they do not own or operate. Vehicles owned or operated by employees, and which are used to transport the employee to the job are not the responsibility of the employer. Logging employees and their personal property should not be reviewed any differently than an employee working for any other employer, including OSHA. This rule needs to be amended so employers are responsible only for those vehicles they own and/or operate.

11. 1910.266 (g) Vehicles (2). The reasons CHI objects to requirements that force employers to conduct inspections of vehicles, machines, tools, PPE, etc., have already been noted in this letter. This rule should be eliminated in favor of rules that require vehicles, machines, tools, PPE, etc., to be maintained in serviceable condition, or be taken out of service.

Also, already noted are the objections of CHI to making employers responsible for the personal vehicles of their employees which are not owned or operated by the employer. This rule should be eliminated.

12. 1910.266 (g) Vehicles (3). Maintenance material should be left where it can be maintained, not thrown wherever it will be destroyed. This rule was stated earlier and we feel that it is still over regulation with no gain in safety.

13. 1910.266 (g) Vehicles (7). This has been stated several times and we again voice our objection to requiring an employer to violate an employees right to privacy in regards to his private vehicle.

14. 1910.266(h) Tree harvesting. Section (1)(vi) and (ix).

CHI wants hanger trees on the ground as soon as possible. Knocking the hanger tree down is not the hazard; leaving it stand is. A sawyer who is working on helicopter logging ground has no other practical means of getting it on the ground. A safer method may be for the well trained sawyer to size up the situation and decide to fall another tree into the hung up tree, forcing it to the ground. This is called driving a tree and is different from Domino Falling. Driving is done only when a tree unintentionally becomes hung up. OSHA is confusing this with Domino Falling. Domino Falling is the practice of deliberately leaving cut up trees standing in order to push them all over at one time by falling one tree into a group of

cut up trees. CHI feels that Domino Falling is an unsafe practice and should be avoided.

In conclusion, CHI has a strong desire to create a safe and healthy place of employment. Sensible solutions can be reached without compromising the safety of our employees. Common sense and experience are the tools of our trade and they should be given a certain amount of consideration and respect.

Respectfully,

COLUMBIA HELICOPTERS, INC.

  
Max Merlich  
Vice President Forestry

rdl/jas

William J. Merritt  
P.O. Box 1345  
Thompson Falls, MT 59873

To Senator Burns:

This letter is in regards to the OSHA safety restrictions as set forth in the Federal Register, Vol 59, No. 196, Wednesday, October 12, 1995 Rules and Regulations 51741.

Number V on the logging boots penetration by chain saw, the use of kevlar which is a plastic. I have a real problem with my feet sweating and the use of kevlar is only going to make it worse. I also have such a narrow foot, size 9-1/2 A. It is such that I can't just walk in somewhere off the street and buy a pair off the shelf. I just had a pair of calk boots made by White Boot Co. that cost me \$360 for these boots. Under this new ruling I can't wear them. It took 2 to 3 months to make these boots. How long will it take before I get the others?

I have run a chain saw since I was twelve years old. My Dad taught me how to use one safely. He brought the first chain saw into the county where I grew up. I've run a chain saw for 32 years and have never cut my foot or any other part of my body. I've also heard that someone in OSHA is getting a kickback from a Swiss Company that makes kevlar boots. I think this should be looked into. Because if this law is to go into effect someone's pockets are going to be lined.

No. VII The wearing of eye protection. I think this is a good idea. I wear glasses and they have protected my eyes from flying objects and I have run into limbs on trees that glanced off my glasses. But for the face shields like the mesh screen, I think they are a hazard. You can't see out of them when they get the fine saw dust on them. When the light is just right you may not see falling limbs when you fall a tree. Some could flip back and you couldn't see it as the mesh is full of saw dust. Or you might not see something that could be leaning in a tree, that would come down and hit you while you're falling a tree. They are really bad in wintertime because they ice up and clog up with saw dust and ice. You then have to take it inside to thaw out and clean.

No. VI The use of mechanical means to remove lodged trees or snags. Instead of cutting out the lodged tree we are to leave it. This could be very costly, in as the company who bid on the sale, by leaving it, or the hooker who is in the strip hooking up logs to be skidded. There was a time that any sawyer who left a tree hanging was fired! Now we are told to leave them? The experienced sawyer can go in and saw the situation out of existence. They have the knowledge to do this let them erase the

No. VI The step cut on a back cut of a tree to guide a tree. You can guide a tree with an even cut, on a tree your face cut and the amount of wood you leave holding guides your tree. Your tree goes down alot smoother with an even cut over the use of a step cut. As far as a tree twisting off of the stump, sometimes you use that as a tool to place a tree in heavy timber to get them down.

Sincerely,

*William J. Merritt*

Melody Rathbun  
3573 McIntosh Drive  
Darby, Montana 59829

To Honorable Fred Burns,

The OSHA Hearing held in Kalispell on March 11, were able to give all who attended a first hand look, at why our Government is in such a mess. Rather than to address specifics, which we are, I felt, adequately at the hearing, I prefer to address the general thinking. Mr. Burns after hearing the testimony, clear thinking Millies are outraged to actually see what kind of laws are being passed. in what little time or understanding that law makers have over the problems, that they are trying to solve. There is so very little about of irresponsibility work in the private sector and I urge you to do whatever it takes to eliminate any control OSHA would like have over logging operations.

After listening to Vigen Husted, the local OSHA inspector on a tape, arrogantly explain his position of authority over the local logger. I'm surprised any of them bothered to get out of bed in the morning to go to work, I do know of some who didn't. Logging generates millions of dollars to local economies - with a major benefit of employment. I suggest those we help support have us above and do something that they are capable of properly doing. Thanks you.

For the record,  
Melody Rathbun  
President of LSX Inc.

Mark L. Ude  
468 City Service Rd  
Libby, MT 59923

Dear Lucia,

Please submit my testimony at the hearings on the proposed OSHA regulations.

First point; the timber industry in Montana has a safety program through the Montana Logging Assoc. I believe Montana Workers Comp (State Govt) penalizes when certain procedures or equipment are not used which causes or involves an injury.

The safety program has worked & question whether federal involvement is warranted. I know it isn't wanted. I wonder if OSHA regulations take precedent over what we have, or if they are binding on us?

Second point; Concerning the eye and face protection. The face shield or screen blocks my vision. Because of the way light is filtered through the trees & brush there is a

natural camouflage effect. Wearing the shield or screen further hinders vision. They are also continually snagging on brush and limbs.

As with the equipment we already wear, the eye & face protection have always been available for those who wanted them. Thats who so many fallers know what a danger they can cause.

Third point; Concerning the steel-toes, Kevlar lined boots. Steel toes work well in conditions where not too heavy objects could fall on feet. The forces, pressures and weight involved in the woods would cause toes to be severed by the steel-toes. Steel-toes would also transmit cold, causing problems in inclement weather.

The way I understand Kevlar it must be loose or thick for proper protection. Loose boots would be

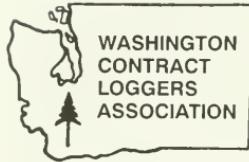
totally unacceptable. Workers depend on their boots for support and sure footing.

Boots with a thick enough lining would be cumbersome and awkward creating a more dangerous situation than they protect against.

Fourth point; Some of the restrictions (not regulations) on falling procedures would hinder if not make impossible the job of timber fellers. They come from a misunderstanding of the work and fear of a job by people who shouldn't be out there.

Many or most injuries would be avoided more effectively by making sure all workers are educated about the dangers inherent in the work. Not by imposing regulations which interfere with the work.

Thank you,  
Mark L. Ulde



State Officers: President: Sherri Hansen of Chewelah  
 Vice-Pres: Tom Van Slyke of Vaughn  
 Treas: Kevin Morris of Shelton  
 Sec: Lloyd Anderson of Shelton  
 Assoc. General Manager: William Pickell

March 11, 1995

Senator Conrad Burns  
 183 Senate Dirksen Office Building  
 Washington, D.C. 20510

Dear Senator Burns,

The Washington Contract Loggers Association, in regards to OSHA's "Final Rules, Logging Operations 1910.266" would like to have the following comments emphasized for the record.

**(h) Tree harvesting. (1) General requirements.**

(ix) WCLA wholeheartedly agrees with OSHA that the practice of purposely Domino falling is an unsafe work practice. However, there are some circumstances where tree driving is necessary and must be recognized as a safe practice. When falling timber on steep terrain, hung-up trees can only safely be felled by falling or 'driving' another tree into the hung-up tree. Since no logging equipment is in the vicinity, nor is likely to be in the vicinity, this is the only practical-yet safe-method of reducing the hazard.

**(d) General Requirements. (1) Personal protective equipment.**

(v) WCLA feels that currently available logging foot-wear more than adequately meets the needs of the industry. OSHA's requirements of a waterproof, chainsaw resistant, steel-toed boot maybe impossible to fulfill and those boots that come close to satisfying the requirements have disadvantages as well. There are currently Kevlar boots available, but they don't have steel toes, don't support the ankle well and don't breathe like traditional leather boots. Additionally, steel toe boots get extremely uncomfortable when the temperature lowers and are heavier, clumsier and more awkward than those currently available, which may lead to more accidents due to slips and falls.

**(5) Environmental conditions.**

WCLA feels that dictating when a logging operation should shut down due to extreme weather conditions is outside the scope of OSHA's mandate. Loggers have enough sense to cease operating during periods when dangerous weather conditions persist. Besides, rain, especially heavy rain, is nearly an everyday occurrence in some areas of Western Washington.

Additionally, WCLA is strongly opposed to OSHA regulations that require employers to provide hard hats and gloves to employees at no cost and requiring that employers be responsible for inspecting and maintaining employee owned vehicles. OSHA should be developing common-sense safety standards and not dictating "who" supplies them. Thank you for your time.

January 25, 1995

Associate Solicitor for Occupational Safety and Health  
Office of the Solicitor  
Room S-4004  
U.S. Department of Labor  
200 Constitution Avenue N.W.  
Washington D.C. 20210

The Washington Contract Loggers Association (WCLA) files this petition for review of the Final Rules, Logging Operations 1910.226, as published in the Federal Register of October 12, 1994. The WCLA is a 600 member trade association representing the logging industry in Washington State. WCLA has for years worked hard to promote logging safety in Washington. WCLA assists loggers in developing company accident prevention programs, offers first aid classes and has been instrumental in the development of the highly successful Washington Logging Safety Conference. All these efforts have proven beneficial, as WCLA members consistently have lower MOD (employer experience) factors than the industry overall.

As an association that represents the majority of contract loggers operating in Washington we oppose the final rule for several reasons. Washington, while not being under the direct scrutiny of OSHA, has worked cooperatively with Washington's WISHA or Department of Labor & Industries, which is required to adopt regulations equal to or at least as stringent as OSHA's. We feel that present L & I logging regulations (WAC 296-54) are more than sufficient and that the final rule as offered by OSHA is nothing more than an unnecessary regulatory burden to employers. Further, the rule does not substantially reduce a significant risk. We offer the following observations:

**(d) General Requirements. (1) Personal protective equipment.**

(iii) Durable Cotton-canvas work gloves, such as the 'White Ox' or 'Portland Rose' brands have traditionally been worn by loggers working in the woods of the Northwest. They give a logger the proper 'feel' and grip needed when handling wire rope, chain saws, and equipment and are durable enough to withstand the abuse afforded by many days of hard work. We do, however, object strongly to OSHA requiring that "the employer shall provide, at no cost to the employee" these cotton gloves. This particular type of glove is readily available at a nominal cost to loggers at most locations throughout the Northwest. Besides, it is expected that workers desiring logging employment in the Northwest be responsible for their own "outfit" which usually includes: caulked boots, heavy-duty denim pants with suspenders, hickory shirt, hard hat and cotton gloves. It is accepted practice for employers in Washington to provide ppe over and above the standard loggers "outfit", i.e., ballistic nylon chaps, high-visibility safety vests, safety glasses. Besides, WAC 296-54-511 (8) covering hand protection, states "Hand Protection. All employees handling lines or other rough materials where there is reasonable possibility of hand injury, shall wear suitable gloves or other hand protection to prevent injury." adequately addresses the topic.

(v) Foot-wear for loggers in Washington has primarily been limited to two choices; leather and rubber calked boots with good ankle support. Leather boots can be worn year-round but are normally worn during the Spring-Summer-Fall months or until the rainy season begins, in which case most loggers switch over to rubber boots in order to keep their feet dry. These boots have provided the vital slip protection and ankle support needed in the logging industry. Boots that are cut resistant and are made out of materials other than rubber and leather may become acceptable to loggers if it is demonstrated that they are as comfortable and offer the same amount of stability and protection as boots presently available. WCLA cannot, in good conscience, support a rule that would require loggers to wear steel toe boots in the woods. Steel toe boots get extremely uncomfortable when the temperature lowers and are heavier, clumsier and more awkward to wear than the boots currently worn. WCLA believes that if steel toed boots are required, the result will be more accidents due to slips and falls. WAC 296-54-511 (a) "All employees whose duties require them to walk on logs or boomsticks, shall wear sharp-calked shoes, or the equivalent, except when the conditions such as ice, snow, etc., render calks ineffective. When calks are ineffective and other footwear does not afford suitable protection, workers shall not be required to work on logs or boomsticks." & (b) "When nonslip type shoes or boots afford a greater degree of employee protection than calk shoes, such as at scaling stations, log sorting yards, etc., then this type of footwear may be worn in lieu of calk shoes providing firm ankle support and secure footing are maintained." adequately covers the footwear question.

(vi) Hard hats are a common-sense piece of safety equipment and their usefulness has been proven time and again. They have also been required to be worn on logging operations in Washington for many years. As was stated previously, hard hats are a part of a loggers normal "outfit" and have usually been provided by the employee himself. In the past few years, a few large timber companies have required that logging contractors to have their employees wear high-visibility hard hats on the job for safety reasons. Under these circumstances, the employer may provide a high-visibility hard hat for the employee as it is viewed as a piece of safety equipment over and above the normal requirements. WCLA believes that the 'employer purchase' option should be maintained and that employers should not have to be required to provide hard hats to their employees. WAC 296-54-511 (4) states that "Occupational head protection. Hard hats meeting the specifications contained in the American National Standards Institute shall be worn by all employees involved in the logging operation or any of its related activities unless such employees are protected by F.O.P.S., cabs or canopies. Hard hats shall be maintained in serviceable condition."

(vii) This rule would require eye and face protection. WCLA feels that WAC 296-54-511 (2) which states, "Eye and face protection. Protective eye and/or face equipment shall be required and worn where there is a probability of injury that can be prevented by such equipment. In such cases, employers shall make conveniently available a type of protector suitable for the work to be performed, and employees shall use such protectors. Suitable eye protectors shall be provided and worn where machines or operations present the hazard of flying objects, glare, liquids, injurious radiation, or a combination of these hazards." is a better rule as it allows the employee the option of wearing eye and/or face protection depending on the work situation. Many loggers in the Northwest wear eye protection either while timber falling or performing landing work. Very few loggers wear face shields, due to the fact that they are uncomfortable, distort the peripheral vision, and become obscured when chips or sawdust stick to the shield during wet weather. WCLA feels that this is a more hazardous condition than not wearing face protection at all. This rule should be amended to allow the employee to choose which variation of protection is appropriate.

**(2) First-aid kits**

(ii) WCLA has offered first aid classes to their logging membership for over ten years. The class is sanctioned by Medic First Aid, located in Eugene, Oregon. First Aid instructors teaching for WCLA have for years been advocating that the arterial 'direct pressure' method of stemming serious blood flow or limb loss was safer and more effective than using a tourniquet, especially since using a tourniquet virtually guarantees the amputation of any extremity it is used on. To require that first aid kits be stocked with a tourniquet would encourage their use, and since individuals are not trained in their proper use, this may lead to situations where tourniquets are misused, leading to an increase in needless amputations

(in) A health care provider examining the contents of first aid kits in order to ensure that first aid kits are adequately supplied. The Washington Department of Labor & Industries has safety inspectors that periodically inspect logging sites and determine that first aid kits are adequately stocked is part of a routine inspection. Mandating that a health care provider inspect first aid kits places an unnecessary burden on the logging employer. Existing WAC rules covering first aid kits are quite adequate and existing records indicate that there has not been a serious problem with employers not maintaining adequately stocked first aid kits on their operations. This rule should be eliminated.

**(3) Seat belts**

(i) Washington law currently requires seat belts to be provided for and worn by the driver and any passengers in a motor vehicle. WCLA believes that this is a useful law and recognizes that the chances for surviving a vehicle accident increase whenever seat belts are worn, as supported by numerous highway studies. However, WCLA feels that it is unrealistic to assume that an employer can be responsible for an employee driving a personal vehicle to and from work. A logging contractor has no more right to control an employee's personal vehicle than does OSHA or any other employer. This rule, as well as all rules in 1910.266 that mandate employer responsibility for the personal vehicles of employees should be amended to relieve the employer of any responsibility of employees' personal vehicles.

(ii) Washington WAC 296-54-557 (18) requires that "Seat belts shall be installed on tractors and other mobile equipment with roll-over protective system and shall be worn by the operator and passenger(s) at all times the vehicle is in motion. The seat belts and assemblies shall be designed, constructed and maintained to conform to the requirements specified in the society of automotive engineers technical report J386 or J333a. Seat belts need not be provided for equipment which is designed for stand-up operations." WAC 296-54-557 (19) further states, "If the equipment operator and person in charge of the jobsite agree that life safety of the operator is jeopardized by wearing a seat belt, the seat belt need not be worn." WCLA feels that the operator and employer option provided for in the WAC is better than the OSHA rule. The wearing of seat belts in mobile logging equipment such as skidders, crawler tractors, mechanized falling machines, machines that are more likely to be involved in a roll-over accident in which the operator could be thrown out if not wearing a seat belt, is far more important than if they are required to be worn while operating machinery such as a stationary yarder, landing shovel or tree processor. These types of machines, usually equipped with falling object protective structures, stay in relatively one location during the course of an operation, exposing the operator to very little danger to a roll over accident. The rule should be amended to allow the operator of ROPS/FOPS equipped machinery the option of wearing a seat belt, depending on the circumstance.

**(5) Environmental conditions.**

Loggers in Washington comply with WAC 296-54-507 (6) which states. "When extreme weather conditions or other extreme conditions are such that additional hazards arise, additional precautions shall be taken to assure safe operations. If the operation cannot be made safe because of the aforementioned conditions, the work shall be discontinued until safe to resume." The OSHA rule includes conditions such as "heavy rain or snow", "dense fog", "fires", and "darkness" as conditions in which work should be terminated. In Washington, where rain is an almost everyday occurrence in some areas, as is fog, who will determine whether it is too foggy or it is raining too hard to work? As for darkness, many loggers in Washington operate equipment in darkness, especially during fire season, where an early shut-down may be required. Loggers are also many times the first line of defense in forest fires. To require that they stop work due to a fire may be the difference in timely control of a fire. By properly training employees to recognize when conditions cannot be made safe due to environmental conditions, rather than when a remote possibility of danger exists is a key to providing a safe work place. OSHA's rule, as written is extremely broad, and should be amended to reflect the WAC code.

**(6) Work areas.**

(iii) Employees on logging operations usually perform their activities in close proximity to each other and well within the required audible or visual contact of one another. There are some jobs on a logging operation that are single employee assignments. In order for the OSHA rule to be reasonable, there should be an exception to always working within visual or audible contact of another employee. Washington WAC 296-54-507 (3) provides for this exception and should be added to the OSHA rule. It states: "Note: This does not apply to operators of motor vehicles, watchmen or certain other jobs which, by their nature, are singular employee assignments. However, a definite procedure for checking the welfare of all employees during working hours shall be instituted and all employees so advised."

(iv) WCLA agrees that every employee should be accounted for at the end of the work day. WAC 296-54-507 (4) adequately provides for this as it states: "The employer shall establish a method of checking the employees in from the woods at the end of each shift. Each immediate supervisor shall be responsible for his crew being accounted for. This standard also includes operators of all movable equipment." WCLA realizes the importance of making sure that no employee is left in the woods and has a ride home. However, many employees choose to drive themselves to work in their personal vehicles so that may partake in recreational activities, that may or may not take place at the job site, after work hours. Employers should be responsible to account for their employees at the end of the work shift, not make sure they go directly home. The OSHA rule should be changed to reflect this.

**(9) Flammable and combustible liquids**

(iv) WCLA feels that there is not enough evidence to indicate that this rule is needed. "Landing fires" are quite common in Washington during much of the logging season, especially during the wet Winter months, and are used by the logging crew as a means to stay warm and to dry wet clothing. Without first using a flammable liquid to start this type of fire in the wet material, a fire would not be possible. Additionally, hand 'drip torches' utilizing flammable liquid are used to start slash fires or prescribed burns, when those forest management practice tools are utilized. Burns from fire, or combustible liquids used to start these fires do not present a significant risk in the logging industry. This rule needs to be eliminated.

**(e) Hand and portable powered tools. (1) General requirements.**

(ii) The OSHA rule requiring the employer to inspect each hand and portable powered tool before initial use and during each work shift is a regulatory extreme that borders on the impossible. In Washington, hand and/or powered tools are covered by a series of rules under WAC 296-24-650 that are logical, and easy for employers to understand and to comply with. It would make far more sense to have the employee who is using the hand or portable powered tool to make the inspection before use and than to inform the employer as to the condition of the tool. This rule needs to be replaced with language that does not unnecessarily burden the employer.

**(2) Chain saws.**

(vi) OSHA needs to clarify what "where otherwise firmly supported" means in regards to chain saw starting. WCLA is aware of the fact that "drop starting" a chain saw leads to back-strain injuries and is generally regarded as an unsafe practice, not to be encouraged. But the fact remains that chain saw operators are able to start chain saws safely from an upright position and should be permitted to do so. WCLA realizes that far to many workers are cut or injured while operating a chain saw, but is not aware of any injuries that have occurred when operators were attempting to start a chain saw.

(xi) Timber fallers in Washington normally carry their chain saw with the blade balanced over their shoulders. This is the most comfortable method of carry, due to the steepness of the hills that fallers are usually working on. The fallers who utilize this method of carry normally wear a padded-leather shoulder patch in order to prevent being cut by the blade. Individuals working on logging operations: rigging slingers, choker setters, etc., who use a chain saw far less often, also choose this method of carry as it is the most comfortable and allows for easy movement through steep, uneven terrain. WCLA knows of very few injuries that have resulted from carrying a chain saw in this manner. This rule should be eliminated and the choice to wear a patch should be left up to the individual timber faller.

**(f) Machines. (1) General requirements.**

(ii) This rule is vague, extremely broad, and too burdensome for any employer to comply with. Requiring employers in the logging industry to ensure that personal machines or vehicles of employees are maintained in serviceable condition is unrealistic. It makes sense that machines, including vehicles owned or operated by the employer must be maintained in serviceable condition. The rule should be eliminated and replaced with rules that require employers to maintain their equipment in serviceable condition, or be taken out of service until the machine is returned to serviceable condition.

(iii) This rule should be changed to give the employer the option of keeping operating and maintenance instructions at the jobsite or a centralized location of his choosing. A significant portion of logging employers have service vehicles available to perform repairs and maintenance on their equipment. Operating manuals and maintenance instructions are best kept with the service vehicle or at the employer's shop, if he has one and not out at the job site. Employees who are equipment operators are trained to perform routine maintenance and repairs safely. Keeping the manuals in a centralized location prevents them from becoming soiled, damaged or eventually lost.

**(3) Protective structures.**

(vii) OSHA needs to clarify this rule. WCLA agrees that machine operators must be protected from objects that could enter into the cab while logging machines are being operated. WCLA would oppose, though, any rule that would require loggers in Washington to enclose areas of machinery that operators need to be able to see out of in order to safely operate the equipment.

(viii) Clarification is, again, needed with this rule. OSHA, in this rule is requiring that the upper portion of the cab shall be "fully enclosed" with mesh material. The rule preceding this rule states that the cab shall be protected "except at the entrances". Comments made by OSHA on page 51717 of the October 12, 1994 Federal Register state that the enclosure should include the rear portion, and as far forward as possible. The rule may say "fully enclosed", the preceding rule and OSHA comments appear not to require full enclosure.

(ix) This rule requires that the "upper portion" of each cab allows for maximum operator visibility. WCLA believes that the entire cab of logging machinery should be designed with maximum operator visibility as a goal. Today's logging equipment is large and extremely fast, making it important that the operator be able to see ground and any persons on the ground in the general vicinity of the equipment. OSHA should keep maximum operator visibility in mind and reconsider this, and the preceding two rules.

**(6) Exhaust systems.**

(iii) It is unnecessary to require logging equipment to have spark arrestors on non-turbocharged engines all year. In Washington, 'fire season' is set and monitored by the Washington Department of Natural Resources with the requirement that during the fire season, exhaust systems on logging equipment be fitted with spark arrestors. A spark arrestor is not needed to protect against fire outside of fire season as evidenced by the WDNR only requiring them during their official fire season. Also, by using a spark arrestor outside of the regular fire season, the risk of damaging or 'burning out' the arrestor is greatly increased, rendering it useless for when it would best serve a purpose during the fire season. This rule needs to be eliminated.

**(g) Vehicles**

(1) Employers have no control over the vehicles they do not own or operate. Vehicles that employees own and operate to transport themselves to the job are not the responsibility of the employer. Are other employees in other industries responsible for the personal vehicles of employees? Logging industry employers should not be treated any differently by OSHA than employers in other industries, whose employees use personal vehicles to get to the job. WCLA has no objection to this rule being amended so that it requires that employers are responsible for those vehicles that they own and/or operate.

(2) WCLA objects to any rules that require employers to conduct inspections of vehicles, especially those owned by employees, machines, tools, personal protective equipment, etc., as these rules are to be burdensome. This rule should be eliminated in favor of rules that require vehicles, machines, tools, personal protective equipment, etc., to be maintained in serviceable condition, and/or be taken out of service when repairs are needed.

**(h) Tree harvesting (1) General requirements**

(vi & vii) WCLA agrees that all danger trees should be felled or removed. Recently, wildlife biologists, who have readily taken over many aspects of forestry, have determined that danger trees, reserve trees or 'snags', habitat that support several species of wildlife. In an effort to retain these snags for wildlife use, many timber sales have required that they remain standing, often placing loggers in danger. WCLA in cooperation with several other state and federal agencies operating in Washington, helped produce a manual, "Guidelines for Selecting Reserve Trees" to help come to grips with the problems created from retaining danger trees on an active logging site. While all problems stemming from snag retention have not been solved by the "Guidelines", they provide much more detail as to how to safely comply with both L & I's mandate for providing a safe workplace for employees and wildlife biologists desire to retain more snags. OSHA should investigate these "Guidelines" and rewrite this rule in order to give employers more leeway in determining whether a danger tree is truly a danger tree not only to the operation, but to the crew.

(ix) WCLA, wholeheartedly, agrees with OSHA that the practice of purposely Domino falling is an unsafe work practice and should be prohibited. When dealing with trees that in the process of being felled, become 'hung-up', creating an unsafe condition, there is often no other way to deal with the situation than to fall another tree into the hung-up tree and relieve the danger. If the area being logged were flat, there would be no problem with hooking up a skidder or having a mechanized falling machine remove the danger. Unfortunately, much of the ground in Washington where hand-falling is required is extremely steep, where putting a machine would create an extremely hazardous situation for the operator. WCLA is not trying to justify the use of Domino falling, or tree-driving, but is merely trying to point out to OSHA that rules need to be written so trained loggers can deal with danger trees in the most safest manner.

**(2) Manual felling.**

(iv) Trees or spring poles under pressure are a serious challenge to loggers. Only experienced, properly trained loggers, using the safest means available should attempt to fall or dislodge trees under pressure. Cutting a tree under pressure may not be the safest method. A safer method of dealing with a tree under pressure may be to drive it. This rule needs to be eliminated.

**(3) Bucking and limbing.**

(ii) Bucking windfalls is, perhaps, a timber fallers worst nightmare. Down trees criss-crossing one another and under extreme tension present a very dangerous condition, where only the most experienced timber fallers should be allowed to operate. WCLA agrees with OSHA that all precautions possible should be taken when dealing with windfalls. However, WCLA also realizes that it is not possible to place a line on or choke a windfall before cutting. To do so may put a skidding machine and operator in a dangerous position that they were not meant to operate on, like some of the steep hillsides associated with logging in Washington. On steep terrain, the most common tactic is to leave the dangerous tree with root wad attached, until the logging tower is set up. Then a line would be put on the windfall and the rigging personnel would buck the log. WCLA feels that the rule as written needs to be amended to allow trained employees to buck windfalls in the safest possible manner, and not restricting them by always having to attach a line to them, especially if to do so creates a greater hazard. WCLA feels that the rules should stress that only experienced, trained employees be allowed to buck windfalls. The rules should also should also require anyone about to buck a windfall to carefully survey the situation in order to best determine the safest method to proceed with. Precautions such as, but not limited to, attaching a line to a windfall about to be bucked should be an option left up to a timber faller or employee about to buck a windfall. Non-essential employees should not be in an area where windfalls are being bucked.

## (5) Yarding.

(iii) WCLA agrees that the safest place to position or 'set' a choker is near the end of the log. Unfortunately, this is not always possible. Sometimes, the only area available to place a choker is near the center of the log, producing what is known in the industry as a "gut-shot" log. While choking a log as close as possible to its end is the safest position, a gut shot log can be choked and sent to the landing in a safe manner also. The OSHA rule should be amended to allow experienced, trained loggers to determine the best position to set a choker on a particular log.

(v) WCLA questions why this rule is included in the OSHA rules, as common sense will dictate that "no yarding line shall be moved unless the yarder operator has clearly received and understood the signal to do so". WCLA also does not understand why this rule is included in the OSHA rules if the OSHA rules do not apply to cable logging. If it does belong in the OSHA rules, it should read "skidding machine operators" rather than "yarder operators".

## (7) First-aid training (i)

WCLA wholeheartedly supports the OSHA rule requiring all employees to receive first-aid training. WCLA has been offering first-aid instruction to loggers in Washington for many years and have discovered that while WAC codes require one individual on each logging job to have a certified first-aid card and all timber fallers be first-aid trained, most employers want their entire crews to know first-aid. First-aid is important not just for on the job, but for domestic situations as well.

In conclusion, WCLA feels that, after a careful reading of the preamble and rules published in the October 12, 1994 Federal Register, OSHA has a basic understanding of the methods and practices used by the logging industry in the Pacific Northwest. However, some of the rules are extremely burdensome to logging employers. For example, rules that require employers to make sure that employees personal vehicles are maintained in a safe and serviceable condition is entirely unrealistic and unenforceable. OSHA needs to take those rules that place an unnecessary burden of compliance on the employer into consideration. Additionally, Washington already has an excellent standard of safety regulation for the logging industry through their WAC 296-54 codes. To require that the Washington Department of Labor & Industry to adopt the OSHA codes as they are written would undermine the continuity of much of the logging regulations.

Yours very truly,

  
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ISBN 0-16-047736-0



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